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ABSTRACT

This guidebook is a resource to help teachers and administrators sort through options in implementing local law-related education programs. The guidebook provides course outlines, lessons for classroom use, and descriptions of ancillary components as well as general information. The ancillary components, lessons, and linkages to Florida's Sunshine State Standards strengthen existing programs. The following sections are included: (1) "Introductory Pages"; (2) "Law Studies Courses"; (3) "Criminal Justice Assisting Courses"; (4) Exemplary Law Lessons"; and (5) "Ancillary Components." (LB)

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# Which Way To LRE?

## A Guidebook of Ideas and Lessons for Use in Building Model Law-Related Courses and Activities for Florida's Secondary Students

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*with funding assistance from The Florida Bar Foundation Interest on Trust Accounts Program*
*and*
*The United States Department of Education*

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# Which Way To LRE?

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*August, 1996*

# Forward

*Which Way To LRE?* is a practical, hands-on resource to help teachers and administrators sort through the maze of options in implementing local law-related education programs. The guidebook provides course outlines, lessons for classroom use, descriptions of ancillary components, and general information to help you decide *which way to go* with law-related education in your district. The guidebook is intended to diminish any *roadblocks* you may encounter as you prepare to begin or continue along the path you have chosen.

For veterans in law-related education schools, this document also serves numerous functions. The ancillary components, lessons, and linkages to Florida's Sunshine State Standards will strengthen your existing programs. We encourage teachers throughout Florida to submit lessons so that we can send out annual supplements to this collection. We are also completing a *Civic Education on the Internet* Unit to complement this guidebook.

The Florida Law Related Education Association, Inc. has a long history of advancing law and citizenship education opportunities in Florida. We hope you will find this resource helpful to your local efforts. We would like to thank the U.S. Department of Education and The Florida Bar Foundation Interest on Trust Accounts program for their support of this resource. Additionally, the teachers, administrators, staff and university faculty who contributed to and coordinated this document deserve special thanks and recognition.

We look forward to your feedback on this document. Please complete and return the evaluation at the end of Part I. Let your friends in elementary schools know that we have also released a new Elementary Legal Frameworks ("ELF") curriculum with 105 K-6 lessons. Feel free to call us for a copy.

Annette B. Pitts

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❖

Knowledge will forever govern ignorance; and a people who mean to be their own governors must arm themselves with the power which knowledge gives.

--James Madison, 1751-1836

❖

If we want to educate a person in virtue we must polish him at a tender age. And if someone is to advance toward wisdom he must be opened up for it in the first years of his life when his industriousness is still burning, his mind is malleable, and his memory still strong.

--Comenius, 1592-1670

❖

Nothing is more important to America than citizenship; there is more assurance of our future in the individual character of our citizens that in any proposal I, and all the wise advisors I can gather, can ever put into effect in Washington.

--Warren G. Harding (1920)

❖

From [the Bill of Rights comes] the fullest flowering of individual human personality.

--Herbert Hoover (1935)

❖

The Constitution...is what living men and women think it is.

--Charles A. Beard (1936)

❖

The Constitution is of course, still in force...but it is a solemn contract made in the name of 'We the People'...and it is an agreement that should be renewed by each generation.

---John Fitzgerald Kennedy (1959)

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# Part I

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# Introductory Pages

# Introduction To Law-Related Education

## 1. WHAT IS LAW-RELATED EDUCATION?

Since their creation, public schools in the United States have taken as their primary purpose the preparation of children and youth for citizenship in a constitutional democracy. Education for citizenship, not specialized legal education, is the main point of law-related education in elementary, middle and high schools. Every citizen needs to know his or her place within a community of others, needs to know how the legal system functions, needs to know how the law and legal system affects them, and needs to know how they affect it in the conduct of his or her daily life.

Law-related education has been defined as education to equip non-lawyers with knowledge, skills and expectations pertaining to the law, the legal process, and the legal system, and with commitment to the fundamental principles and democratic values upon which these principles are based. Through law-related education, teachers strive to assist students in becoming active members of society, who understand law and its underlying principles, obey the law while working to correct any inequities or inefficiencies, and contribute positively to their communities as a part of the larger pluralistic, democratic society.

## 2. HOW DOES LAW-RELATED EDUCATION FIT INTO THE SCHOOL PROGRAM?

There are at least four *complementary* approaches to law-related education in the total school program. First, the school is a community with its rules, codes of conduct, processes, and celebrations. Teaching and practicing the code of conduct for the school community is a form of law-related education as is the development and implementation of classroom rules. The enforcement of these rules and codes, and their periodic review, offers additional opportunities for law learning which is transferrable to adult civic life. In addition, the special occasions when the school and classroom communities gather to observe (and celebrate) such as Law Day, Veterans Day, Presidents Day, and Martin Luther King, Jr.'s Birthday can be used for collaborative reflection upon law in the life of all pluralistic, democratic communities and the quality of their civic life.

Second, law-related education objectives and content may be infused into any course of study in existing curriculum. Social studies is an obvious curriculum area with its offerings in American government, economics, American and world history, civics, and state and local history. Less obvious, but equally valuable, are opportunities to infuse law concepts and democratic values into the English, or "language arts," curriculum through literature study and various forms of writing. Science courses offer opportunities for the study of environmental law, psychology courses a place for examination of human behavior and commitment to rules, sociology the nature of community with taboos, norms, and folkways, and physical education with its special attention to physical processes and the essential nature of any game--rule following and fairness.

Career education, itself infused into the curriculum, opens the opportunity to examine a plethora of law-related careers in our society from attorneys, paralegals, and judges to police officers, deputies and correctional officers; from law librarians to meter maids; from park rangers, border patrol and immigration officers to court reporters, journalists, and parole and probation officers.

Third, special units and courses may be added to the school curriculum. Middle school "unified arts," or special interest, exploratory units have often included study of "Sports and the Law," "Street Law," and "Law and Communities." Many middle schools regularly offer semester courses in law studies, focused upon criminal, juvenile, and/or civil law for citizenship. High school curriculum regularly provide semester courses such as "Legal Systems and Concepts" or "Law Studies" and full, year-long courses in "Comprehensive Law Studies" and "Court Observer Program." Some of these special courses, such as the "Court Observer Program" or "Teen Court Participation", are offered off-campus in real courthouse settings.

Many schools, often in conjunction with one or more community agencies, offer summer programs for students with special needs or interests. Students study the law in concert with law enforcement officers, attorneys and judges, as well as teachers, in their communities. For these learners, the study of the law *en situ* provides a realism often missing in classroom learning.

Fourth, the school vocational education program increasingly affords learners in high schools the chance to not only explore career options, but to study law procedures and law enforcement in depth. Often working with school resource officers, as well as other sworn officials in their communities, students experience law enforcement realities to complement legal principles and procedures in their texts.

## 3.TAKEN TOGETHER,WHAT ARE THE PURPOSES OF THESE LAW-RELATED PROGRAMS IN OUR SCHOOLS?

Simply put, law-related education seeks to provide academic learning and skill development which will empower the learners while, at the same time, improving our communities and the civic understanding and commitment of its members. Law-related education is first and foremost *citizenship education*. It is second a program of *delinquency reduction*, wherein students overcome feelings of powerlessness by systematic study of their community, its legal systems, its values and principles and its reason for being -- pluralistic, democratic, civic well-being.

Law-related education is *high-interest study*, with a direct linkage of the student with his or her community, its history, geography, agencies, and legal institutions--a program of *immediate relevance* and motivation. With interactive learning activities and the use of knowledge and skills from other curriculum areas law-related education is *integrated learning*, learning by whole problems or natural questions and not through fragmented curriculum disciplines.

And law-related education is *career education*, wherein students study and see adults fulfilling the many positions in our legal system and its web of reciprocity throughout the wider community. This system and its web contains employment (and volunteer) opportunities for persons with diverse interests and abilities.

As the millennium closes and our communities reflect upon their achievements and continuing problems, law-related education for children and youth is a basis for understanding many of those achievements and to address the continuing problems.

# Florida's Law Magnet Schools

## 1. WHAT ARE "LAW MAGNET" SCHOOLS?

A "magnet" school is a school which has a specific curricular theme or instructional approach which is offered in addition to a general program of studies. These schools draw students from all areas of the school district without regard to usual school attendance zones. Students are selected based on their interests and aptitudes for the particular theme or instructional strategy central to the school program.

"Law Magnet" schools are the centerpiece of Florida's civic and law education. There are a variety of elementary, middle, and high school theme-based programs. These "Law Magnet", or Theme-Based, Schools exist in the form of

- MicroSocieties (replications of society at the elementary school level); Academies or Institutes (middle or high school programs that are college-preparatory in nature);
- Tech prep programs (high school programs that focus on students who will proceed directly into the workforce); and
- True magnets (whose purpose is to draw students from a particular race to desegregate the regular school population and may be academies/institutes, tech preps, or a combination).

The Florida Law Related Education Association uses the term "Law Magnet" to describe an intensive law program, whether or not students are drawn from across the district (as with a true magnet). They may be a "school within a school" with students blocked together for the entire day or involve students who have a variety of different schedules. Their names and their programs may vary, but their goals are similar.

## 2. WHY ARE "LAW MAGNET" SCHOOLS FORMED?

Due to Florida's School Improvement Movement, communities are designing innovative schools, "Law Magnets". They are formed:

- to offer an advanced program of study on a specific area of study;
- to give students the opportunity to make career decisions sooner and begin obtaining knowledge, experience, and skills;
- to attract students with similar interests but diverse backgrounds and abilities;
- to develop confident, skilled, and successful citizens, students, and professionals;
- to possibly offer a positive solution to desegregation;
- to prepare students for post-secondary success;
- to motivate them to stay in school;
- to improve the practical applicability of education;
- to teach alternatives to violence;
- to provide practical, lifelong learning and a world-class educational experience; and
- to inculcate democratic values and citizenship skills.

Fortified by research and created by dedicated professionals, these innovative schools satisfy student, school, and community needs and support Blueprint 2000 goals by preparing students to enter the workplace and post-secondary education, compete at high levels, and make well-reasoned, thoughtful, and healthy lifelong decisions by providing an environment conducive to teaching and learning and protective of students' health, safety, and civil rights. As students are prepared for careers or higher education, they gain vital knowledge about the law that will help them make sound choices throughout their lives and will afford them practical skills.

## 3. WHEN WERE "LAW MAGNET" SCHOOLS FORMED? WHERE DO THEY EXIST?

Within the last several years, at least 5 MicroSocieties, 4 Middle School "Law Magnets", and 31 high school "Law Magnet" schools have been developed across Florida. Some counties are under court order to desegregate, and "Law Magnets" provide the necessary draw. They come from 20 of the 67 counties.

## 4. HOW DO "LAW MAGNET" SCHOOLS ATTRACT STUDENTS AND FUNDERS?

Law Magnet Schools attract students and funding sources through innovative programs and law-related curricula, hands-on activities, tie-ins to other subject areas, interactive methodology, real-life experiences, partnerships with legal professionals, utilization of technology, Youth Court and Teen Court programs, conflict resolution initiatives, Youth Summits, interaction with government officials, congressional hearings and mediation simulations, Mock Trials, academic competitions, internships and mentorships, crime prevention activities, and school environments structurally enhanced to simulate the justice system. These schools are funded by many different entities: the United States Department of Education, the Florida Law Related Education Association, school districts, community organizations, and private businesses.

## 5. WHAT CHARACTERIZES "LAW MAGNET" SCHOOLS AND MAKES THEM SPECIAL?

Many regular schools offer law-related events (Law Day, Law Week, hosting a Supreme Court Justice or Congressperson, guest speakers, etc.) or units of instruction (Civil Rights, Presidential elections), but "Law Magnet" schools go far beyond that.

At the *elementary* level, MicroSocieties are microcosms of the real world. Aside from traditional subjects, students apply, interview, and are hired for various jobs at the school for which they earn "money". For several hours a week, students rotate between working their jobs (Banker, Professional Athlete, Judge, Bailiff, Police Officer, TV News Anchor and Meteorologist, Postal Worker, Factory Worker, Retail Shop Owner, Creative Arts Lab Technician, Tutor for Younger Students, Landscaper, Food Service Worker, and Warehouse Staff Member), visiting the "mall" to spend their earnings, making banking transactions, and watching the sports team. Also, students change jobs every nine weeks to gain a variety of experiences.

At the MicroSocieties various classrooms house a courtroom, factory, TV studio, bank, print shop, warehouse, post office, and mall. Halls have positive street names, and all correspondence must be addressed correctly. Each student must also maintain a savings account and pay tuition and taxes just as they will when they are adults.

Students elect a Mayor, and the Senate determines the rules for the MicroSociety. Infractions are written on tickets by the Police Officers, and rule-breakers must pay fines or pursue the matter in court. There is no jail (or welfare office), thus encouraging a positive, productive atmosphere. Field trips are taken to law firms, police stations, and the courthouse, and judicial personnel such as judges, lawyers, and law clerks volunteer at the school once a week.

*Middle School* "Law Magnets" may offer Law Studies, Civics, and Research classes in addition to activities such as job shadowing, honor court, Explorer Posts, mock trials, court reporting, forensic simulations, and field trips to the FDLE Crime Lab, State Attorney's Office, Circuit Court, Police Academy, and corporate law firms.

Opportunities for careers are explored, and students gain knowledge about civil and criminal law and judicial proceedings. Students become informed citizens and acquire the necessary skills and values to function in a democratic society.

At the ***high school*** level, programs diversify into a variety of strengths and areas of focus: professional law careers, Criminal Justice professions, and Tech Prep jobs. That is, programs may be individualized with instruction for students who are continuing directly to a four-year college or university for further study, entering into occupations requiring an AS degree or vocational certification, or going directly into the work force. Some are a school within a school and have four-year programs which serve the needs of all students and guide them in their role as a citizen in a democracy. Government and law-related issues are infused into the curriculum, and students participate in learning activities such as mock trials, police car ride-alongs, local fire department visits, guest speakers, field trips, and internships.

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## Evaluation and Comments

Please give us your feedback!

1. How did you receive *Which Way To LRE?*
   ☐ mailed from FLREA ☐ shared by a colleague ☐ other: ____________________

2. My first impressions of *Which Way To LRE?* were:
   ☐ very positive ☐ somewhat positive ☐ neutral ☐ somewhat negative ☐ very negative

3. I am primarily interested in:
   ☐ Law Studies ☐ Criminal Justice Assisting ☐ Lesson Samples ☐ Ancillaries
   ☐ all of the above ☐ not sure

4. I plan to use *Which Way To LRE?* in designing a course in:
   ☐ Law Studies ☐ Criminal Justice Assisting ☐ other: ____________________
   ☐ neither ☐ not sure

5. I plan to use some part of *Which Way To LRE?* in my current course of:
   ☐ Law Studies ☐ Criminal Justice Assisting ☐ other: ____________________
   ☐ neither ☐ not sure

Comments on Part II - *Law Studies Courses*
1. The most useful part of this section was: ____________________
2. The least useful part was: ____________________
   ☐ because I do not need help with this ☐ because it has not worked for me
3. I would have liked to see: ____________________
4. What from this section do you hope to incorporate into your curriculum?____________________

____________________________________________

Comments on Part III - *Criminal Justice AssistingCourses*
1. The most useful part of this section was: ____________________
2. The least useful part was: ____________________
   ☐ because I do not need help with this ☐ because it has not worked for me
3. I would have liked to see: ____________________
4. What from this section do you hope to incorporate into your curriculum?____________________

____________________________________________

Comments on Part IV - *Exemplary Law Lessons*
1. The most useful lesson(s) are:____________________

____________________________________________

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____________________________________________

3. I would have liked to see lessons on:____________________

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1. The most useful part of this section was: ______________________________
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Overall, what was your favorite component or aspect of this product?
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    [ ] ancillary component: ______________________
    [ ] other: ______________________

Name: ______________________ School: ______________________

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E-mail: askncjrs@ncjrs.org

National Criminal Justice Reference Service
Office for Victims of Crime Resource Center
PO Box 6000
Rockville, MD 20849-6000
Ph: (800) 627-6872
E-mail: askncjrs@ncjrs.org

National Education Association (NEA)
1201 16th Street N.W.
Washington, D.C. 20036
Ph: (202) 822-7200
Fax: (202) 822-7292

National Institute for Citizen Education in the Law (NICEL)
711 G Street, S.E.
Washington, D.C. 20003
Ph: (202) 546-6644
Fax: (202) 546-6649
E-mail: carokulk@umd5.umd.edu

National Institute for Dispute Resolution
1726 M Street, NW, Suite 500
Washington, D.C. 20036-4502
Ph: (202) 466-4764
Fax: (202) 466-4769

Phi Alpha Delta Public Service Center (PAD)
PO Box 3217
Granada Hills, CA 91394-0217
Ph: (818) 368-8103
Fax: (818) 363-5851

Police Foundation
1001 22nd Street N.W., Suite 200
Washington, D.C. 20037
Ph: (202) 833-1460
Fax: (202) 659-9149

Project LEGAL
Syracuse University
513 Eggeres Hall
Syracuse, NY 13244
Ph: (315) 443-5451
Fax: (315) 443-5451
E-mail: jajcarro@mailbox.syr.edu
WWW: http://web.syr.edu/~jajcarro/

Public Citizen
1600 20th Street N.W.
Washington, D.C. 20009
Ph: (202) 588-1000
Fax: (202) 588-7796

Social Science Education Consortium
PO Box 21270
Boulder, CO 80301-2272
Ph: (303) 492-8154
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E-mail: hyatts@ucsu.colorado.edu

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ERIC Digest EDO-SO-88-6 June 1988

# Law-Related Education in Elementary and Secondary Schools

### by Carolyn Pereira

Law-related education (LRE) in elementary and secondary schools has grown remarkably since the 1970s. A nationwide curriculum survey (Hahn 1985) reveals that, since 1975, LRE has been added to the curriculum in more than half of the forty-six states involved in the study. Respondents in Hahn's study (state-level curriculum specialists and supervisors) mentioned LRE more frequently than any other curriculum theme as new to the social studies program since 1975. They also ranked LRE fourth as a priority in social studies education; it ranked eleventh in 1975.

It appears that teaching and learning about law in elementary and secondary schools is an important trend in social studies education. This ERIC Digest treats (1) the meaning of law-related education, (2) reasons for including LRE in the curriculum, (3) ways to include LRE in the curriculum, and (4) characteristics of effective LRE programs in elementary and secondary schools.

**What Is Law-Related Education?** Education for citizenship in a constitutional democracy, not specialized legal education, is the main point of LRE in elementary and secondary schools. Given the fundamental place of law in our American society, every citizen needs to know how the legal and political systems function, how the law affects them, and how they can affect it.

In 1978, major leaders in LRE described their field for a federal government report. They defined LRE as "those organized learning experiences that provide students and educators with opportunities to develop the knowledge and understanding, skills, attitudes and appreciations necessary to respond effectively to the law and legal issues in our complex and changing society" (Study Group on Law-Related Education 1978). In line with this definition, central ideas of LRE programs pertain to why certain legal procedures have been established and how they work in resolving disputes.

**Why Should LRE Be Included in the Social Studies Curriculum?** Four reasons for including LRE in the curriculum are (1) development of knowledge, skills, and attitudes needed for citizenship, (2) prevention of delinquency, (3) growth of student interest in the social studies, and (4) provision of breadth and depth to education in the social studies.

1. *Development of Citizenship.* Law-related education provides young people with knowledge, skills, and attitudes necessary for informed, responsible participation in our American constitutional democracy. LRE clearly and indisputably increases students' knowledge of the justice system, government, and the rights and responsibilities of citizenship in a constitutional democracy. There also is evidence that LRE contributes to development of skills in civic participation, decision making, and critical thinking. Finally, positive attitudes about the law, the justice system, and responsible citizenship may be enhanced through LRE programs. (Hunter 1987).

2. *Prevention of Delinquency.* A study conducted by the Social Science Education Consortium and the Center for Action Research indicates that LRE programs, when properly conducted, can reduce tendencies toward delinquent behavior and improve a range of attitudes related to responsible citizenship (Little and Haley 1982). For example, successful students of LRE programs are less likely to associate with delinquent peers, use violence as a means of resolving conflict, and refrain from reporting criminal behavior to authorities.

3. *Growth of Student Interest in the Social Studies.* Content of LRE programs is directly related to the lives of students. The variety of interactive methods of instruction (e.g., small group work, mock trials, simulations, case studies) seem to involve students positively in the learning process. Thus, law-related educators tend to report that students seem to "value LRE classes as relevant, useful, and interesting; that the classroom interaction is rewarding—offering students who had difficulties mastering the subject matter of other courses opportunities to participate successfully" (Hunter 1987, 55). Heightened interest and positive attitudes of students in LRE programs may transfer to other courses in the social studies.

4. *Provision of Breadth and Depth to Education in the Social Studies.* Law-related concepts and facts are necessary to the understanding of history, government, and economics—subjects that are integral to education in the social studies in elementary and secondary schools. Sources of law, functions of law, legal processes, legal roles, and legal principles (e.g., justice, equality, authority, freedom, order, etc.) are essential elements of the social studies curriculum. Thus, LRE is a necessary component of a sound social studies curriculum.

**How Does LRE Fit into the Curriculum?** There are three obvious approaches to inclusion of LRE in the curriculum (Naylor 1984):

- Use of special events about the law.
- The special unit or course on LRE.
- Infusion of LRE into various standard courses.

Special events, such as Law Day, annually provide opportunities to draw attention to LRE and to provide special programs. Teachers might invite lawyers to participate in classroom or school-

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wide activities. Other special events include mock trial competitions, field trips to courtrooms, and essay contests.

A separate unit or course on LRE is often included in the secondary school curriculum. Separate units typically appear in government and civics courses. Law and citizenship courses are also offered as electives in many schools. In some schools, there is a required LRE course. Separate units on law are often found at various levels in the social studies curriculum of elementary schools.

The infusion of LRE into standard courses in the social studies is common. Courses in American history, world history, and government are the most likely subjects for infusion of significant content about the law.

Over the short term, it appears that a semester course on LRE makes a positive difference in knowledge, skills, and attitudes. However, some law-related educators believe that the preferred approach is systematic infusion; they contend that a carefully-integrated strand of LRE throughout the elementary and secondary curriculum will yield the best results in terms of the quantity and quality of instruction.

**What are the Characteristics of Effective LRE Programs?** Effective LRE programs are distinguished by at least five characteristics, which are listed below.

1. *Extensive Interaction Among Students.* Teaching strategies that foster interactive and cooperative learning among students are keys to development of civic participation skills and positive attitudes about LRE and responsible citizenship (Slavin 1980). Examples of these teaching strategies are small group work, simulations, role-play activities, and mock trials.

2. *Realistic Content that Includes Balanced Treatment of Issues.* Realistic and fair treatment of issues is an essential component of effective law-related education. So is critical thinking about all sides to controversies. If our legal system is presented as flawless or infallible, students will doubt the credibility of the teacher and the practicality of the content. By contrast, if only cases in which the system has failed are presented, students will be less likely to view the law as a positive tool for maintaining social order and justice. A balance should be sought between respect for the law and constructive criticism about its application in specific cases. There should also be a balanced treatment of all sides to issues in legal cases.

3. *Use of Outside Resource Persons in the Classroom.* Interaction with a variety of adult role models who work within our legal system adds credibility and reality to the curriculum and is a powerful influence on development of positive student attitudes toward the law. Appropriate use of resource persons in the classroom (e.g., lawyers, judges, police officers, legislators, etc.) is strongly associated with increased student interest in LRE, positive responses to teachers and the school, and shifts from delinquent to nondelinquent peer associations. Of course, these adult role models should exhibit behaviors sought in students and be prepared in advance to make contributions to the course that are consistent with the objectives of LRE.

4. *Strong Support for LRE by the Principal and Other Important School Administrators.* A key to successful implementation of LRE in schools is strong support by administrators, especially the school principal. Supportive administrators can aid LRE by organizing opportunities for peer support, rewarding teachers for outstanding work, helping teachers explain and justify the LRE program to people in the community outside the school, and providing opportunities for staff development in knowledge and skills needed to carry out LRE programs. It is difficult or impossible to establish a worthwhile LRE program in the face of indifference or opposition by important school administrators.

5. *Systematic Staff Development in LRE.* The effectiveness of LRE programs depends upon the knowledge and skill of teachers. In addition, positive attitudes about LRE on the part of teachers and their colleagues are very important to successful implementation of LRE in a school. Development of necessary knowledge, skills, and attitudes among teachers can be achieved through systematic and extensive staff development activities. Successful staff development programs provide these benefits to teachers:

- An understanding of and commitment to the rationale, goals, and objectives of LRE.
- Experiences in working with high-quality lessons so that they understand how and why they work.
- Practice in evaluating and modifying materials to gain skill in selecting and adapting content and methods to fit local educational objectives.
- Practice in teaching strategies associated with successful LRE programs.
- Opportunities for constructive "feedback" about performances in teacher training sessions.

In conclusion, successful LRE programs involve students actively in the learning process in ways that reflect a high regard for each person. Reflection, deliberation, and discourse are valued and practiced systematically. And the development of knowledge and character are pursued in concert, as equally important elements of responsible citizenship in our constitutional democracy.

**References and ERIC Resources**

Following is a list of resources including references used to prepare this Digest. Those items followed by an ED number are in the ERIC system and are available in microfiche and/or paper copies from the ERIC Document Reproduction Service (EDRS). For information about prices, write EDRS, 1900 Wheeler Avenue, Alexandria, Virginia 22304 or call 1-800-227-3742. Entries followed by an EJ number are annotated monthly in CIJE (*Current Index to Journals in Education*) which is available in most libraries. EJ documents are not available through EDRS; however, they can be located in the journal section of most libraries using the bibliographic information provided below.

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ERIC Digest EDO-SO-91-3 April 1991

# Teaching the Responsibilities of Citizenship

### by John J. Patrick

Education for citizenship in a constitutional democracy has been a long-standing goal of schools in the United States. To achieve this goal, students must learn their civil rights and responsibilities in a free society. This ERIC Digest discusses (1) the importance of teaching about the responsibilities of citizenship, (2) deficiencies in learning about responsible citizenship, (3) how to improve learning about responsible citizenship at home, (4) how to improve learning about responsible citizenship at school, and (5) where to obtain information and materials about how to teach responsible citizenship.

**Why Should We Teach the Responsibilities of Citizenship?** Civil rights and liberties, claims based on law, are enforceable through the judicial system (e.g., the individual's right to freely express public policy preferences, to vote in a public election, or to have a trial by jury). By contrast, responsibilities of citizenship are obligations to contribute to the common good by performing duties to benefit the community (e.g., the individual's responsibility to become informed about public policies, to vote in public elections, or to serve willingly as a juror).

The preservation of civil rights and liberties is linked to performance of responsibilities. For example, the right of political participation means little when most citizens fail to exercise it. Furthermore, the right to free expression of political ideas is diminished when individuals do not gain knowledge about government. Responsibilities of citizenship—such as voluntary service to the community, participation in the political system, acquisition of knowledge about civic life, and public commitment to the values of constitutional democracy (e.g., liberty, justice, and the rule of law)—are essential to the health of a free society.

**What Are the Deficiencies of Young Americans in Learning about Responsible Citizenship?** Surveys of civic knowledge, attitudes, and actions reveal serious deficiencies in the citizenship education of young Americans. Reports on civic learning by the National Assessment of Educational Progress (NAEP), for example, indicate that the majority of 12th graders have a rudimentary knowledge of government and citizenship in the United States. However, half of the students in grade 12 fail to demonstrate knowledge needed for responsible participation in the political system. Further, in 1988, only six percent of the high school seniors achieved the highest level of civic proficiency as defined in the NAEP test. A very disturbing finding was that high school students did "significantly less well" in civics in the most recent assessment (1988) than their 1982 counterparts (National Assessment of Educational Progress-1990, 13).

Surveys of attitudes show a weak orientation by adolescents toward voluntary service for the community (Hart 1988). Most students acknowledge the importance of voting and campaigning in public elections; but they also tend to express low levels of political interest and efficacy (Miller 1985). The percentage of 18- to 24-year-olds voting in public elections lags far behind the rate for those over age 25, which also tends to be much lower than desired by advocates of responsible citizenship.

There is a clear need to improve the learning of young Americans about their responsibilities as citizens of a democratic society. Parents and school teachers must act in concert to strengthen the desire and capacity of children for performance of civic obligations.

**What Can Be Done at Home?** Parents and guardians are the child's first and most influential teachers of civic values and attitudes. Lessons learned at home about political participation or community service, for example, are likely to set the terms and tone for later learning about these responsibilities of citizenship.

Parents and guardians can enhance the child's learning of citizenship responsibilities by doing the following things at home.

- Set a good example by participating in the political system and volunteering for community service projects.
- Show interest in civic affairs and government through initiation of conversations at dinner time or in response to television programs about current events.
- Require children to perform duties regularly at home as lessons in the value of contributing to the common good of their family unit.
- Encourage children to take part in community service projects, such as neighborhood clean-up or beautification activities, re-cycling of materials to conserve natural resources, and tutoring of younger children with learning problems.
- Provide civic learning resources in the home—books, magazines, newspapers—and use them with children.
- Transmit and reinforce the civic values of our constitutional democracy through discussions, exemplary behavior, and use of fair rules for orderly family life.
- Monitor and reinforce at home lessons in school about the responsibilities of citizenship.

**What Can Be Done at School?** After the family, the school has a major effect on the civic attitudes of children. It is the primary agency for teaching knowledge about politics and government. Examples are presented below about how to enhance education about citizenship responsibilities at school.

- Increase the amount of time that all students are involved in civic education at all levels of school.
- Infuse lessons about the responsibilities of citizenship into all subjects of the curriculum at all levels of schooling, with special emphasis in the social studies and literature courses.
- Require students to read, analyze, and discuss cases and stories about people involved in the civic life of their communities in the past and present.
- Establish cooperative learning experiences in which groups of students take responsibility for their own achievement of educational objectives.

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- Involve students in simulations and role playing activities about various aspects of civic responsibilities.
- Establish school-based programs for performance of community service as a regular part of the civics curriculum.
- Emphasize lessons about the civic values of our constitutional democracy at all levels of schooling through role modeling, reading and writing assignments, and open discussion of public issues and current events.
- Make assignments that require students to write letters to government officials or newspapers to advocate opinions about public issues and policies.
- Make assignments that require students to participate in political activities outside the classroom.

**Where Can Information and Materials Be Obtained about How to Teach Responsible Citizenship?** Information and materials on how to teach rights and responsibilities of citizenship can be obtained from the organizations or centers listed below.

- American Bar Association
  Special Committee on Youth Education for Citizenship
  541 N. Fairbanks Avenue
  Chicago, IL 60611-3314
  (312) 988-5735
- American Federation of Teachers
  Education for Democracy Project
  555 New Jersey Avenue, N.W.
  Washington, DC 20001
  (202) 879-4575
- Center for Civic Education
  5146 Douglas Fir Road
  Calabasas, CA 91302
  (818) 340-9320
- Close Up Foundation
  44 Canal Center Plaza
  Alexandria, VA 22314
  (703) 706-3300
- Constitutional Rights Foundation
  601 S. Kingsley Drive
  Los Angeles, CA 90005
  (213) 487-5590
- Council for the Advancement of Citizenship
  1200 Eighteenth Street, N.W.
  Suite 302
  Washington, DC 20036
  (202) 857-0580
- Educational Excellence Network
  1112 16th Street, N.W.
  Suite 500
  Washington, DC 20036
  (202) 785-2985
- National Council for the Social Studies
  3501 Newark Street, N.W.
  Washington, DC 20016
  (202) 966-7840
- Social Science Education Consortium
  3300 Mitchell Lane
  Boulder, CO 80301
  (303) 492-8154
- Social Studies Development Center
  Indiana University
  2805 East Tenth Street, Suite 120
  Bloomington, IN 47408
  (812) 855-3838

**References and ERIC Resources**

The following list of resources includes references used to prepare this Digest. The items followed by an ED number are in the ERIC system. They are available in microfiche and paper copies from the ERIC Document Reproduction Service (EDRS). For information about prices, contact EDRS, 7420 Fullerton Road, Suite 110, Springfield, Virginia 22153-2852; telephone numbers are 703-440-1400 and 800-443-3742. Entries followed by an EJ number are annotated monthly in CURRENT INDEX TO JOURNALS IN EDUCATION (CIJE), which is available in most libraries. EJ documents are not available through EDRS. However, they can be located in the journal section of most libraries by using the bibliographic information provided below.

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Gagnon, Paul. DEMOCRACY'S HALF-TOLD STORY: WHAT AMERICAN HISTORY TEXTBOOKS SHOULD ADD. Washington, DC: American Federation of Teachers, 1989. ED 313 305.

Hart, Peter D. DEMOCRACY'S NEXT GENERATION: A STUDY OF YOUTH AND TEACHERS. Washington, DC: People for the American Way, 1989.

Laughlin, Margaret. "Sources of Materials for Developing Enlightened Citizens." EDUCATIONAL LEADERSHIP 45 (October 1987): 82-84. EJ 362 233.

Miller, Jon D. EFFECTIVE PARTICIPATION: A STANDARD FOR SOCIAL SCIENCE EDUCATION. Paper presented at the annual meeting of the Social Science Education Consortium, Racine, WI, 1985. ED 265 083.

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Newmann, Fred M., and Robert A. Rutter. "A Profile of High School Community Service Programs." EDUCATIONAL LEADERSHIP 43 (January 1986): 65-71. EJ 329 636.

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Reische, Diana L. CITIZENSHIP: GOAL OF EDUCATION. Arlington, VA: American Association of School Administrators, 1987. ED 292 714.

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# Teaching the Law Using United States Supreme Court Cases

by Robert S. Leming

"We are very quiet there, but it is the quiet of a storm centre." These words were used in 1913 by Associate Justice Oliver Wendell Holmes Jr. to describe the Supreme Court. Since 1789, the Court has been making decisions that affect all of us. The study of Supreme Court cases, therefore, should be an integral part of civic education. This ERIC Digest discusses (1) constitutional issues and Supreme Court cases that should be taught and (2) effective strategies for teaching them. It also includes a list of national organizations that develop resources to enhance the teaching of Supreme Court cases.

**Selection of Constitutional Issues and Supreme Court Cases.** When deciding which cases to include in the curriculum, a teacher must choose from hundreds of potential cases. The following criteria can guide decisions about which cases and issues should be included.

Select "landmark decisions" that constitutional scholars have, for the most part, agreed are the most important ones. For example, John A. Garraty's book *Quarrels That Have Shaped The Constitution* describes twenty landmark decisions from *Marbury v. Madison* (1803) to *Roe v. Wade* (1973). Duane Lockard and Walter F. Murphy's *Basic Cases in Constitutional Law* includes thirty-one landmark decisions. Publications like these should be used as guides to case selection.

Cases should be studied that involve issues in the lives of pre-adults. Students are more likely to be interested in cases that affect them directly. For example, in *Tinker v. Des Moines Independent School District* (1969), Justice Abe Fortas, writing the majority opinion in this case that declared that the wearing of black armbands to protest the Vietnam War was a form of "symbolic speech", argued that "First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." However, in the 1980s, cases were decided that seemed to limit the rights of students while in a school setting. For example, in *New Jersey v. T.L.O.* (1985), the Supreme Court decided that school officials need only "reasonable suspicion" rather than "probable cause" to search a student's property. A few years later, in *Hazelwood School District v. Kuhlmeier* (1988), the Court held that public school officials may censor student speech which takes place in school sponsored forums. Justice Byron White, writing for the majority, argued that the school newspaper *Spectrum* is not a public forum and is sponsored by the school, therefore, school authorities may exercise editorial control over its contents.

Some cases chosen should emphasize the paradox of majority rule with respect for minority rights, two core concepts of constitutional democracy. The Supreme Court has acted as the "David" against the "Goliath" of an oppressive majority. For example, in *Texas v. Johnson* (1989), the Court agreed with the Texas Court of Appeals decision to reverse Johnson's conviction for publicly burning the American flag. Despite the possible influence of the majority of American citizens, who disagreed with Johnson, the Court, in a 5-4 decision, upheld the rights of an individual who expressed an emphatically unpopular position. In 1948, the Court, in its unanimous decision in *Shelley v. Kraemer*, put an end to racial covenants. One of the attorneys for the petitioner, Thurgood Marshall, argued that racial covenants, enforced by state courts, had denied to African American citizens rights that were enjoyed, as a matter of fact, by other citizens representing the majority. These decisions and others illustrate the paradoxical relationship of majority rule with respect for minority rights.

**Effective Instructional Strategies for Teaching Supreme Court Cases.** Using a variety of instructional strategies throughout the school year is the most effective way to teach Supreme Court cases. Some practical examples are presented below.

Teach Supreme Court cases in historical context so that the constitutional issue is cast within the social forces that generated it. For example, should student expression be limited in school settings? What types of actions violate the Establishment Clause of the Constitution? What constitutes cruel and unusual punishment? What kinds of searches and seizures violate the Fourth Amendment? Does the Second Amendment's right to bear arms include owning a machine gun? These issues and others should be examined in an historical perspective and in terms of present-day standards in recent court decisions. How have decisions and standards changed over time? By discussing the legal precedents to a modern decision, students can begin to understand both the continuity and the fluidity of the law, as well as the political and social times in which a case was decided.

When discussing Supreme Court cases, both the majority and dissenting opinions should be examined. Students need to understand that if judges can disagree about important issues, then citizens should feel confident to do the same.

Using a brief lecture along with discussion is an excellent method to introduce an issue and subsequently the case or cases for examination. However, use of the case study method is probably the most common and effective strategy for teaching Supreme Court issues and decisions. To be successful with this strategy, the teacher must be well informed on the legal issues and facts of the case. The approach is successful because of the active involvement of students in analyzing a legal case by participating in class discussions that identify a particular legal issue, taking sides, stating points of view, and formulating and evaluating decisions. When

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using the case study method, students are encouraged to carry out the following steps:

- Review the background information and the facts in the case.
- Determine the main issue in the case.
- Examine alternative arguments on the issue in the case.
- Consider the decision (both majority and dissenting opinions) and legal reasoning in the case.
- Assess the implications and the significance of the case in constitutional history.

A moot court simulation is a very exciting instructional strategy that involves students in a role play of the United States Supreme Court. Similar to the case study method, a moot court simulation calls for active involvement of students. Acting as judges and attorneys, students learn how the Supreme Court operates and develop a better understanding of the case in question and the issues involved.

To create a successful simulation, students are encouraged to engage in the following procedures. First, as a whole class, review the background information and the facts in the case. Second, as a whole class, determine the main issue in the case. Third, divide students into three groups:

(1) Judges, who review the facts in the case, clarify the issue, and prepare questions that will be asked of the attorneys during the simulation.
(2) Petitioners, who prepare two or three written and oral arguments for the simulation.
(3) Respondents, who prepare two or three written and oral arguments for the simulation.

Two court simulation options are presented below.

(1) Involve the class as one court room with nine justices, two attorneys for the petitioner and respondent. The remainder of the class serves as an audience.
(2) Divide the class into three to five small groups; each group includes three judges, one or two attorneys for both the petitioner and the respondent. The small courts will operate individually. This option is advantageous because of the possibility of conflicting decisions by the courts. If the classrooms courts differ in their judgments, students will begin to understand the importance of dissenting opinions and the make-up of the court.

Debrief the court simulation by reading the real decision and engaging in an evaluation of the decisions made in the classroom. Discuss the implications and the significance of the case in constitutional history.

**Sources of Information and Material about How to Teach the Law Using Supreme Court Cases.** Information and materials on Supreme Court cases can be obtained from the organizations listed below:

- American Bar Association; Special Committee on Youth Education for Citizenship; 541 N. Fairbanks Avenue; Chicago, IL 60611-3314; (312) 988-5735.
- Center for Civic Education (CCE); 5146 Douglas Fir Road; Calabasas, CA 91302; (818) 340-9320.
- Center for Research and Development in Law-Related Education (CRADLE); Wake Forest University, School of Law; Box 7206, Reynolda Station; Winston-Salem, NC 27109; (918) 761-5872.
- Constitutional Rights Foundation (CRF); 601 S. Kingsley Drive; Los Angeles, CA 90005; (213) 487-5590.
- Chicago Office of the CRF; Suite 1700, 407 South Dearborn; Chicago, IL 60605; (312) 663-9057.
- National Institute for Citizenship Education in the Law (NICEL); 711 G Street, SE; Washington, DC 20003; (202) 546-6644.
- Phi Alpha Delta Public Service Center (PAD); 7315 Wisconsin Avenue; Suite 325E; Bethesda, MD 20814; (301) 986-9406.

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ERIC Digest EDO-SO-92-6 August 1992

# Teaching about the Constitutional Rights of Students

### by Stephen S. Gottlieb

If people are to exercise their rights and fulfill their responsibilities as citizens, they must understand those rights and responsibilities. Social studies teachers have a special role to play in shaping the lives of young United States citizens. Those educators can help determine whether students will know their civic rights and responsibilities and become politically involved adults.

**U.S. Government Structure and Citizens' Rights.** An appreciation of the rights and responsibilities of American citizens requires a basic understanding of the structure of the United States government. Teachers can use lectures, readings, role-playing activities, and a host of other techniques to help students understand the organization of the federal government and its relationship to the individual states. The most natural starting point for such study is the Constitution.

Students will be interested to learn that the Bill of Rights, which many consider to be a model civil liberties document, was the result of a compromise. It was offered to allay fears about the strong central government established under the basic Constitution. Some state ratifying conventions would not have approved the Constitution had they not been promised the Bill of Rights as well.

**Criminal Law and Juvenile Justice.** The Constitution's Fourth Amendment prohibits police officers from breaking into people's homes without a warrant, seeking out and seizing evidence of crimes, and using that evidence against the residents in criminal trials. However, it was not until 1961 that the U.S. Supreme Court established the "exclusionary rule" clearly, which prevents officials from using evidence gained illegally in the prosecution of a person accused of a crime. Students will enjoy debating whether that landmark ruling in the case of *Mapp v. Ohio* was the right decision for the Court, and what problems it could pose for law enforcement. For example, critics have argued that the "exclusionary rule" may result in acquittal of persons who might otherwise have been proven guilty. Supporters, however, have hailed it as a great defense of individual liberties.

Critics of the criminal justice system often ask why the state should have to supply defense attorneys for criminal suspects. To a person who has not made a serious study of the Constitution, it might seem odd that the government sometimes assists people who may have broken the government's own laws. The 1963 case of *Gideon v. Wainwright* stands for the proposition that a person cannot be denied equal access to justice simply because he lacks the resources to pay for his defense. The questions of whether poverty justifies free legal representation and whether a poor person gets the same quality legal help as a rich person does provide excellent grounds for class discussion.

Anyone who has watched a television police drama in the last few decades is familiar with the litany known as the "Miranda warning." Most people probably do not know who Miranda was or realize the full significance of the individual instructions. What does the Fifth Amendment's ban on compelling a person to be a witness against himself have to do with the Miranda case? An informed citizen should know. Was the Miranda decision a necessary defense of individual rights? Or has it unfairly restricted police officers in their apprehension of criminals? Students should be challenged to debate this constitutional issue.

In some countries, citizens must carry identity cards and show them to public authorities on demand. In most circumstances in the United States, people going about their business do not have to stop and explain themselves to every passing police officer. People need to be aware, however, that there are exceptions to this general rule. Administrative checks of automobiles and roadblocks to seek out drunk drivers on public highways have been upheld by the courts. Even on the sidewalk, police can stop people who are acting suspiciously, and frisk them when the situation warrants. Where should the United States draw the line between the "let me see your papers" mentality of authoritarian regimes and the legitimate interest of governments in protecting the public from dangerous individuals? This critical question should be used to focus classroom discussions.

The Eighth Amendment bars the imposition of cruel and unusual punishment and prohibits excessive bails and fines. When is a punishment "cruel and unusual"? When is a fine "excessive"? Much has been written about the relationship between the Eighth Amendment and capital punishment. Given a hypothetical situation about a death penalty case, a classroom may produce as many different opinions about the case as there are students in the class.

The law treats children accused of breaking the law somewhat differently from adult suspects. Prosecutors generally must follow a different set of procedures when putting juveniles on trial. However, when facing the possibility of commitment to an institution, a juvenile offender must still be advised of the charges and of the right to counsel, the privilege against self-incrimination, and the right to confront prosecuting witnesses. As in the case of an adult charged with a crime, the guilt of a juvenile accused of committing an act of delinquency must be proven beyond a reasonable doubt.

Role-playing activities provide excellent means for learning about the United States justice system. Students will enjoy the drama of taking the part of a judge, lawyer, witness, or litigant. Criminal cases and situations pitting a person's individual rights against the authority of the government are particularly excellent situations for capturing and holding the attention of students.

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**Constitutional Rights at School.** Students do not set aside their constitutional rights when they walk into school. However, those rights are balanced against school administrators' disciplinary authority and the civic responsibilities of students. Children facing suspension from school must be given hearings, but those hearings need not amount to formal trials. A student can wear an armband to school as an expression of his political views, but may be disciplined for a sexually suggestive speech delivered at a school-sponsored assembly. A student contributor to the school newspaper enjoys First Amendment rights, but the school that sponsors the paper can remove material that it views as inconsistent with the school's educational mission. School boards may order the removal of books from school libraries, but are prevented from taking the action if it is for partisan political reasons.

The rules regarding search and seizure also apply differently to schoolchildren. School officials are free to search a student if there is evidence that the student committed a crime or violated a school rule, and if the search is reasonable at the outset and reasonably limited in scope.

One of the most significant United States Supreme Court decisions in history dealt with the issue of race in public education. Prior to the 1950s, African Americans were still barred from attending many public schools solely on racial grounds. Longstanding court decisions held that "separate but equal" educational facilities for blacks were acceptable. In 1954, in the landmark decision of *Brown v. Board of Education of Topeka*, the United States Supreme Court finally held that the "separate but equal" policy was inherently unequal. In a follow-up ruling the next year, the justices ordered that schools were to be desegregated "with all deliberate speed." Notwithstanding the ruling, school desegregation suits continue to crop up from time to time.

The cases and situations discussed comprise just a small part of the United States' rich legal history. Knowledge of that history is of the utmost importance to those who are about to become adult participants in American society.

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# Teaching about the Fourth Amendment's Protection Against Unreasonable Searches and Seizures

### by Robert S. Leming

The Fourth Amendment states, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." With the passage of the U.S. Bill of Rights in 1791, (Amendments I-X of the U.S. Constitution), Americans acquired protection against unreasonable searches and seizures by the federal government. The understanding and interpretation of ideas expressed in the Fourth Amendment have been influenced by historical events, technological inventions, and changes in thinking about the meaning of the provisions in the amendment.

**Understanding and Interpreting Searches and Seizures.** What is a search? What is a seizure?

What constitutes a search was clearly outlined in one of the earliest Fourth Amendment cases. Decided in 1886, *Boyd v. United States* involved a federal customs statute that required businessmen (involved in importing goods) to choose between producing invoices and record books during a government inspection or having the imported goods confiscated by customs officials. Justice Joseph P. Bradley, delivering the opinion of the Court, struck down the customs statute and, in doing so, widened the scope of the Fourth Amendment. He argued, "It is not the breaking of a man's doors and the rummaging of his drawers that constitutes the essence of the offense; but it is the invasion of his indefeasible right of personal security, personal liberty and private property, where that right has never been forfeited by his conviction of some public offense."

Justice Bradley's interpretation of the Fourth Amendment was reshaped by three technological developments that occurred during the later part of the 19th century. The telephone, the microphone, and instantaneous photography all created new ways to conduct searches and seizures. In light of these new inventions, the questions for the Court became whether or not the use of these devices constituted a search and, if they did, were the searches reasonable.

In the 1928 landmark case of *Olmstead v. United States*, the Court was given the opportunity to decide the constitutionality of wiretapping by the FBI. In a split decision, the Court ruled that a wiretap was not a search and seizure within the meaning of the Fourth Amendment, therefore, the FBI's actions were constitutional.

The *Olmstead* decision helped define the meaning and scope of the Fourth Amendment for the next forty years. However, in 1967 the Court decided *Katz v. United States*, in which it reversed the *Olmstead* decision. Katz had been convicted of illegal gambling based on evidence gathered using a wiretap placed in a public telephone booth. Conversations between Katz and his gambling associates were overheard and recorded by the FBI. Justice Stewart, writing for the majority, stated, "The Government's activities in electronically listening to and recording the petitioner's words violated the privacy upon which he justifiably relied while using the telephone booth and thus constituted a 'search and seizure' within the meaning of the Fourth Amendment." In *Katz*, the Court defined a "search" as any governmental intrusion into something in which a person has a reasonable expectation of privacy and "seizure" as taking into possession, custody, or control.

**The Meaning of "Unreasonable" in the Fourth Amendment.** The question of what is "unreasonable" was first dealt with at the federal level in the 1914 case of *Weeks v. United States* and nearly fifty years later at the state level in the 1961 case of *Mapp v. Ohio*. In *Weeks*, the Court argued that evidence gathered in an illegal manner, without probable cause or without a search warrant, should be excluded from court proceedings. In part, the exclusionary rule was adopted to prevent abuses by the police and other government officials. The logic followed that if police understand that evidence seized in a manner that violates any of the provisions of the Fourth Amendment will be excluded from court proceedings, they will less likely conduct searches without warrants or without probable cause. The *Weeks* decision only affected federal courts, and two-thirds of the state courts rejected the exclusionary rule, claiming the rule placed unnecessary burdens on the police and the rule favored the guilty.

In the 1961 case of *Mapp v. Ohio*, the U.S. Supreme Court expanded the rights of the accused by applying the exclusionary rule to all criminal trials, both federal and state. Ms. Mapp had been sentenced to a year in jail for possessing pornographic materials seized in a search of her apartment. The police entered her apartment without a valid warrant, searching for a fugitive from justice and illegal gambling slips. The state attorneys argued that no matter how incorrectly the police behaved, their actions did not change the facts in the case. Ms. Mapp was guilty of possessing pornographic materials, therefore, her conviction should stand. The state also argued that the U.S. Supreme Court should allow local government to handle police excesses in their own way.

The U.S. Supreme Court disagreed with the state of Ohio and would not tolerate such an abuse of power exhibited by the Cleveland police. The Court's decision ensured that all citizens were afforded Fourth Amendment protection against "unreason-

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able searches and seizures" by all levels of governmental officials.

During the past thirty years, many exceptions to the provisions outlined in the Fourth Amendment have been approved by the U.S. Supreme Court. In many situations, warrantless searches have been upheld by the Court. In addition, a number of exceptions to the exclusionary rule have also been approved. The constant changes in our thinking about and interpretation of the meaning of the Fourth Amendment illustrates the continuous evolving struggle of a citizenry trying to balance the democratic principles of securing and protecting individual rights with the promoting of public order and the common welfare.

**Methods for Teaching the Fourth Amendment.** An effective method of teaching Fourth Amendment ideas and issues is to use case studies, such as the *Katz* and *Mapp* cases. The case study method is effective because students learn to analyze a legal case by participating in class discussions, taking sides, stating points of view, and formulating and evaluating decisions. The case study method includes the following steps:

- Review the facts in the case.
- Determine the main constitutional issue in the case.
- Examine alternative arguments on each side of the issue in the case.
- Consider the decision (both the majority opinion and dissenting opinions, if any) and legal reasoning in the case.
- Assess the implications and the significance of the case in constitutional history.

Information for creating Fourth Amendment case study lessons can be derived from the official record of U.S. Supreme Court decisions, *United States Reports*. Standard reference books are useful sources of information on important Supreme Court cases. For example, a reliable source is *The Oxford Companion to the Supreme Court of the United States*.

In addition to the case study method, a moot court is an effective strategy that involves students participating as petitioners, respondents, and justices in a U.S. Supreme Court simulation. Students acting as attorneys prepare written arguments and present three-to-five-minute statements to panels of students participating as justices. The justices are responsible for rendering a decision and writing brief majority or minority opinions. In addition to helping students understand the facts, arguments, constitutional issues, and the decision in a case, a moot court helps students understand the process involved in obtaining justice.

Another effective teaching method is a simulated congressional hearing. The best example of this strategy in practice is "We the People. . . the Citizen and the Constitution." This national program is coordinated by the Center for Civic Education and is funded through the U.S. Department of Education. Students involved in the congressional hearings compete at the congressional district, state, and national levels. Entire classes, broken into six groups, prepare for hearings by studying the historical roots and modern day applications of democratic principles that are included in the Constitution and Bill of Rights. The hearings require students to formulate written statements presented orally to a panel of judges and to answer probing questions that require students to formulate verbal responses based on their understanding of the issues and their ability to apply democratic principles to modern-day examples. A simulated congressional hearing could be designed to test students' understanding of Fourth Amendment issues.

A final teaching method that involves students in learning constitutional principles is the use of Constitution-based scripted trials. A scripted trial involves students in the trial process through their participation as a judge, a bailiff, attorneys, witnesses, and jurors. Because the trial is scripted, key issues and information about the central issues of the case are introduced to the participants through the testimony of witnesses and the questions posed by the attorneys. After hearing and evaluating the evidence presented during the trial, students are asked to interpret the law and make decisions that affect the innocence or guilt of the defendant. Students are also encouraged to apply what they have learned through their participation in the scripted trial to new situations. An example of a Constitution-based scripted trial is *Indiana v. Jamie L. Curtis*, 1992. This scripted trial, published by the Social Studies Development Center and the Indiana State Bar Association, asks students to consider the reasonableness of a search of a student's book-bag.

The participants learn to apply a two-pronged test devised by the U.S. Supreme Court in the 1985 *New Jersey v. T.L.O.* case. The test suggests that both the inception and the scope of the search must be based on a reasonable suspicion.

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# Civic Education for Global Understanding

*by Charles Titus*

Preparation of young people for effective citizenship has been a major concern of American educators. Today, however, when the world has been made immeasurably smaller through revolutionary developments in communications and transportation, and as the planet is threatened by a constellation of transnational problems of staggering complexity, a different approach to citizenship preparation seems needed. This approach—which might be called civic education for global understanding—includes a renewed engagement with and dedication to the civic needs of our nation. It continues to involve "explicit and continuing study of the basic concepts and values underlying our democratic community and constitutional order" in the United States (Butts 1988, 184). It also incorporates, however, recognition that Americans are residents of a planet that has become a global village. This development requires our civic attention and action on a transnational and transcultural scale (Boulding 1988).

**Why Do Americans Need Civic Education for Global Understanding?** Plainly, American civic involvement needs restoration. Stuart Langton (1990, 305) has observed that post-modern life in the United States has created a number of "alienating conditions" which have become "barriers to healthy civic life today." These barriers, according to Langton, include an unending and rapid cascade of change, especially in the amount of information available and the speed with which it is handled; an enormous range of complex problems at local, national, and international levels; and confusion about "the amount of disinformation in advertising and public debate." Such factors contribute to an "apathy and consumerism" which numb Americans and induce in them a sense of helplessness "in the face of forces beyond their control."

This alienation has, according to Suzanne Morse (1989, 1), contributed to a continuing decline in the number of citizens who vote in public elections. Further, there has been troubling unfamiliarity of voters on key issues and problems when they do go to the polls. Serious societal dislocation such as crime, homelessness, and violence haunts America. These conditions call for renewed civic education about the structures and functions of American government and about a sense of community in America.

But beyond these very real demands for citizenship education devoted to the internal civic requirements of the nation, there exists, too, a need for a broader understanding that will equip young Americans to live effectively in the complex and interrelated world to which their country is inextricably connected. A host of transnational problems, including the disposal and regulation of nuclear weapons, the world-wide difficulties of environmental pollution, shortages of natural resources, and a rapidly emerging interdependent world economy, has in one way or another transformed the lives of almost all Americans. Our students need familiarity with what Elise Boulding (1988) has called a "global civic culture." That familiarity would help Americans recognize their obligations to their own nation and to the planet at large.

**What Are the Components of Civic Education for Global Understanding?** The first component involves educating young Americans about their nation's history and government, with emphasis upon the core concepts of democracy in the United States. The core concepts reflect content from four systems—political, legal, economic, and social—which when conjoined form the substance of democratic citizenship (Jarolimek 1990). This first component acknowledges American citizenship in a nation-state, which has its own history, traditions, culture, national identity, and national interests.

The second component sharpens student awareness that the responsibilities of citizenship extend far beyond national boundaries and recognizes that irreversible global changes are challenging long-standing conceptions of American civic education. It enhances a growing sense of a civic responsibility to the planet at large. This second component of civic education for global understanding involves "development of competent and responsible citizens whose perspective, knowledge, and skills will enable them to participate more effectively in local, state, national, and international affairs" (Branson 1989, 1).

**What Are the Goals of Civic Education for Global Understanding?** Included in the first set of goals is a revivified civic interest and increased participation in community and national affairs by citizens; an improved civic literacy which flows from a sound understanding of the fundamental structure and operation of the American governmental system (including the United States Constitution); and an ability to make reasoned, reflective decisions about public policy issues. A renewed appreciation of America's history and cultures is also included among these goals, as is a heightened respect for an understanding of the bedrock of the American political experience. Achievement of these goals will help insure that Americans maintain and improve the democratic framework which has sustained the United States since its founding more than two centuries ago.

The second set of goals encompasses an enhanced recognition by Americans that their obligations of citizenship extend beyond the nation's frontiers; that all people have a common identity as members of the human species; and that the plethora of conditions once categorized as national problems are now, or very soon will be, transnational problems that require a

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commitment to a "global civic culture" if they are to be solved (Boulding 1988). Also included among this second group of goals is a better understanding of this nation's changing international role in a post-Cold War world and knowledge of the expanding network of international connections which continues to tie nations ever more closely to each other. Meeting this set of goals will contribute to an enlightened recognition among Americans of the full range of this country's global connections and involvement.

**How Is Citizenship Education for Global Understanding To Be Implemented?** Implementation of a meaningful and effective civic education for global understanding requires changes from the way much civic education has traditionally been carried out. One change involves how we teach. As William T. Callahan (1990, 338) has commented, "[G]ood citizens are made not born. The repertoire of intellectual and interpersonal skills needed for effective civic participation must be learned, and to be learned well they must be practiced." The skills, which include the ability to help shape public judgment, are created by meeting, talking, and thinking with other members of the student's community inside and outside of the school.

Benjamin Barber (1992, 245-261) has outlined a model program of civic education at Rutgers University which teaches citizenship through a combination of schooling and community service. A similar program, with some modification, could be applied to secondary schools as well. Such efforts can help us renew our commitment to the national community through service to the local community.

Elise Boulding has described how much progress toward what she has called "a global civic culture" can be made through our individual participation in one or more "INGOs"—international non-governmental organizations, such as sister-city programs, Girl Scouts and Boy Scouts, sports associations, and other groups. Such participation can help to shatter our narrow, national encapsulation and expand our global understanding.

Implementation of civic education for global understanding calls for changes in the traditional approach to social studies subject matter as well. A revitalized history curriculum, which focuses on global connections in United States history (and there are many of these) can illuminate both our own past and our nation's continuing place in the world.

The study of geography is of paramount importance for it reveals where the resources of the world—human and non-human—are located and how they are related. It focuses on those geo-political factors which plainly will help shape our own history and the history of others; and it expands our knowledge of cultures beyond our own national boundary lines (Jarolimek 1990).

Economics too assumes a significant role in this new approach to civic education. Improved understanding of economics, particularly in terms of international trade and how such trade has been shaped by the development of manufacturing processes and wage and labor considerations in many countries, is of cardinal importance (Jarolimek 1990).

Achieving a new civic education for global understanding will be difficult. Many factors mitigate against it. These include the inertia induced by what has been called the "deep structure of American schools" (Tye 1992, 10) and resistance by some who, alarmed by the term "global," may see such efforts as a threat to national unity. Yet the future of American democracy depends in large part on how well the citizens of our nation gain the competence of citizenship needed to carry out their civic responsibilities, both here at home and in the world.

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# Mediation in the Schools

### by David Keller Trevaskis

Concern about violence in the schools has made the study of conflict and conflict management an urgent matter for educators today. Mediation is one form of conflict management that is getting widespread attention in schools across America. Mediation involves a neutral third person, called a mediator, who assists the disputants in resolving their problem with the consent of all parties. It offers a risk free way to settle disputes for the parties involved in the dispute. No agreement, no deal.

**How Should Schools Address the Problem of Violence?** Conflict is a normal, natural part of everyday life. The word conflict has its roots in the Latin word *conflictus*, meaning "striking together." Despite the violent overtones of its Latin translation, conflict and violence are not synonymous. However, unresolved and lingering conflict frequently leads to violence, interfering with productivity and the quality of life in schools and the community. Extensive data illustrate that instances of violence, including bias-related violence and disciplinary problems in schools around the country, are severely interfering with the learning environment of students. Almost 300,000 high school students are attacked physically each month and one in five students in grades 9 through 12 carries a weapon to school (Meek 1992, 48).

The rising incidence of violence in the schools has led numerous school districts to implement a wide range of costly safety measures from purchasing metal detectors to hiring full-time police officers. Although such measures may limit violent acts in the schools, they do not attack the causes of violence and often serve only to move the violence elsewhere in the community. There is a growing, common-sense consensus that the best way to handle violence in the schools and prevent its spread throughout the community is to defuse disputes before they turn violent.

Schools have attempted to manage interpersonal conflicts among students, teachers, and administrators by various models of discipline, such as referrals to the principal's office, detention, suspension, and expulsion. Yet, it does not appear that these methods teach the students the problem solving and conflict resolution skills they need for life to resolve conflict in a productive, non-violent way. Dissatisfaction with traditional processes established to settle disputes has led educators and others to try new ways of conflict resolution such as mediation.

The rush toward conflict resolution in the schools is mirrored in society at large by a move away from the traditional litigation model of problem solving in the courts. Alternative Dispute Resolution (ADR) efforts, including court-based mediation programs, are expanding throughout the justice system. Mediation as an alternative means of dispute resolution has been around in various forms since the 1960s. It received national attention in 1984 when the National Association for Mediation in Education (NAME) was formed. NAME brought together educators and mediators working in neighborhood justice centers to consider how best to teach about mediation and conflict resolution. (For more information contact NAME, 205 Hampshire House, P.O. Box 33635, University of Massachusetts, Amherst, MA 01003-3635; (413) 545-2462.) The mediation effort in schools was also spurred by the development of local programs that have grown to national stature, such as the Community Board Program in San Francisco and the New Mexico Center for Dispute Resolution based in Albuquerque.

**How is Mediation Being Used in the Schools?** Peer mediation programs, where students are trained generally to resolve disputes involving other students, have been shown to be an effective means of resolving disputes in school settings. Success rates of 58% to 93% have been achieved at various sites where success was measured by whether an agreement was reached and maintained at the time of a follow-up evaluation (Lam 1988; Johnson, Johnson, and Dudley 1992). There is anecdotal evidence that students transfer the mediation techniques learned in school to settings beyond the classroom. Students have reported using their mediation skills to resolve disputes at home with their siblings and in their community with peers (Johnson, Johnson, and Dudley 1992, 97).

Both mediators and disputants benefit from the mediation training and conflict resolution process. Students who are taught the skills of mediating disputes learn political skills which can be used beyond the classroom. Student mediators learn to listen effectively, summarize accurately, and think critically. Further, they develop skills on how to solve problems, to lead, to write, and to foster meaningful discussion among disputants. Since mediation seeks to solve a dispute and prevent its recurrence, student mediators learn to plan for the future. They learn about responsibilities as well as rights, about consequences as well as choices.

Disputants involved in mediation also learn many of these same lessons. More importantly, maybe for the first time in their lives, they learn non-violent ways that they can choose to resolve their conflicts. They learn that they can succeed at resolving conflicts peaceably, that they can resolve problems without resorting to violence. They also develop a capacity to empathize with others.

This creates a "chicken and the egg" element to bringing mediation programs into schools. Do you begin by teaching everyone the skills of conflict resolution, or do you begin by training a small group of peer mediators? Either approach may

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**be used at the start of a program, but there is a need to eventually teach everyone in the school commmity the skills involved in mediating disputes, so that the broader goals are achieved. Success of peer mediation should be studied in terms of broader issues of changing ways of thinking about and responding to conflict as well as specific improvements in school discipline and student behavior.**

At the elementary school level, mediators generally work in teams on the playground, in the lunchroom, or in the classroom. Intervention is often immediate, with the mediators coming up to the disputants and asking if they would like to try to settle their problems. If they agree, the mediators and disputants move to a clear area and begin the mediation process. If the disputants refuse to participate, the mediators move on. Their job is to help parties resolve their disputes, not to police the area.

At the secondary level, peer mediators often have cases referred to them for mediation. These mediations take place in more formal settings, such as an empty office or classroom set aside for the mediation program.

**Checklist for Mediation.** Trained mediators follow a simple procedure, such as the model outlined below from the American Bar Association (Wolowiec 1984, 16):

Part I. Introduction

1. Have participants introduce themselves.
2. Explain the mediator's role.
3. Explain the ground rules. An example of a good ground rule is: Respect each other.
4. Explain steps of mediation.
5. Ask for any questions before you begin.

Part II. Telling the Story

1. Both parties tell their side of the story to the mediator.
2. Summarize both parties' side of the story.
3. Make sure *you* understand the conflict.
4. Make sure the parties understand the conflict.

Part III. Identifying Facts and Feelings

1. Parties tell their side of the story to each other.
2. Bring out facts and feelings of what the parties say.
3. Have parties change roles.
4. Summarize the facts and feelings of both sides.

Part IV. Generating Options

1. Ask both parties how they can solve the problem.
2. Write down all solutions.
3. Check off only the solution(s) that both parties can agree to.

Part V. Agreement

1. Use only the solutions that both parties agree to.
2. Write the contract up in parties' own words.
3. Everybody signs it.

Part VI. Follow-Up

1. Explain how follow-up works.
2. Remember to thank the people for being there and for letting the mediation service help them.

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April 1995

# National Standards for Civics and Government

## by Charles F. Bahmueller

It has been recognized since the founding of the American republic that education has a civic mission—to foster the development of informed, responsible, and humane citizens who participate in democratic governance and are committed to the values and principles of constitutional democracy as practiced in the United States. In this view, the well-being of a free society ultimately depends on the character of its citizens—on their moral and civic capacities and virtues, on their willingness to fulfill their roles competently as the ultimate arbiters of the purpose and direction of the body politic of which they are members. To help achieve these goals, voluntary National Standards for Civics and Government for students in kindergarten through twelfth grade have been developed by the Center for Civic Education. More than three thousand teachers, scholars, parents, elected officials, and representatives of business and industry contributed to the Standards' development.

The Standards are organized around five central questions dealing with the following subjects: (1) the nature and necessity of government, (2) the foundations of American constitutionalism, (3) the functioning of American government and the place of democratic values and principles within it, (4) America's relations with the world, and (5) the roles of the citizen. Each of the five questions is followed by a statement which summarizes the standards that follow and presents reasons why citizens should be knowledgeable about them.

**The first of the five overarching questions: What are civic life, politics, and government?** Students should know why politics and government are necessary and integral elements of any society. There are various views about why this is so. Aristotle believed that political society is the result of a natural process; others argue that government is necessary because without it people are unable to reach goals or deal with many common problems, such as the national defense or the regulation of domestic and international commerce.

This standard also asks students to think about the purposes of government. Some governments seek to protect certain individual rights; others pursue such purposes as achieving a religious vision or promoting a secular utopian ideology. Students should see that the purposes adopted for government affect the relationships between the individual and government, and between government and society as a whole. Thus, the purposes served by the government determine whether a society is or is not free.

The standards also emphasize the importance of constitutions and constitutionalism, beginning with the nature and purposes of constitutions. The Standards ask students to distinguish between limited or constitutional government and unlimited government, and between constitutions that are operational and that merely are facades for despotic regimes. Students should know what "the rule of law" means, and why it is a characteristic of limited government. They should also know that limited government protects, within legal boundaries, an autonomous, spontaneous, and self-organizing social sphere known as "civil society," and they should understand how civil society can maintain limited government. Further, students should understand the relationship of limited government to political and economic freedom. They should know what conditions are required for constitutional government to flourish. Finally, students should be aware of alternative ways other countries organize constitutional government.

**The second of the Standards' five principal questions: What are the foundations of the American political system?** Students are asked to consider the basic ideas of American constitutional democracy. The American idea of constitutionalism, for example, is that legitimate government is limited both in its purposes and the means employed to pursue these purposes. Students are asked to explore the intellectual and political background to these ideas from Magna Carta (1215) onward, including the development of popular sovereignty and the idea of constitutions as "higher law." Students should also understand how the Constitution has shaped the character of American society and what the distinctive characteristics of American society are. In addition, students are to understand the character of American political culture, the unique features of national identity and political life.

Students are to understand two strands of civic values central to the American founding and influential thereafter. They are classical liberalism, which emphasizes the protection of individual rights as a central purpose of government; and classical republicanism, which emphasizes the primacy of civic virtue and the common good. Students are also to understand that conflicts arise among these values. Private rights, for example, may conflict with prevailing conceptions of public good. They should realize that there are disparities, sometimes important ones, between American ideals and their realization.

**The third central question: How does the government established by the Constitution embody the purposes, values, and principles of American democracy?** The Standards ask students to consider the ways and means the Constitution's framers devised to curb the potential abuse of power. The Constitution limits power by dispersing it. Federalism disperses power by creating several layers of government. Further, power is separated and shared through a complex system of checks and balances in which each branch of government shares some powers of the others so that none is unchecked.

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Charles F. Bahmueller is a political philosopher at the Center for Civic Education. He was the general editor of *CIVITAS: A Framework for Civic Education* and a co-developer of the *National Standards for Civics and Government*.

It is essential that students grasp the basic functions and organization of the institutions of government. They should know what the major responsibilities of the federal government are in domestic and foreign policy, and how state and local government are organized and discharge their responsibilities. Because state and local government provide most of the services citizens receive and are often most accessible, citizens should be knowledgeable about them.

Citizens should understand the function of law in a free society and its place in the American system. They should see how the federal structure of American government provides numerous opportunities to influence the making and executing of law. In viewing this complex process, they should understand what public opinion and the public agenda are, and how political communication via the mass media affect them. Finally, citizens should have some knowledge of political parties, campaigns, and elections in the political system; and they should know something about the many interest groups in American politics.

**The fourth central question the Standards address: What is the relationship of the United States to other nations and to world affairs?** To meet these standards, citizens must first understand how the world is organized politically; that is, how it is divided into nation-states, and how these nation-states interact. They should also be able to identify the roles of major governmental and nongovernmental international organizations.

Secondly, citizens need an understanding of the history of American relations with the world. They should know how domestic politics and constitutional principles affect the nation's role in the world. They should know how American foreign policy is made, and the means and ends of foreign policy. For example, they should be able to explain the idea of the national interest, as well as the influence of constitutional values and principles on foreign policy. Finally, they should have a grasp of the reciprocal influence of the United States of America and other nations.

**The fifth and final question addressed by the Standards: What are the roles of the citizen in American democracy?** This is the culmination of the document and focuses upon the ideal outcome of civic education. Democratic citizens are *active*; "democracy is not a spectator sport." If they are to consent to their roles, citizens must know what citizenship is, what their personal, political, and economic rights are, and what responsibilities those rights entail. Among these responsibilities are voting in public elections and otherwise participating in civic life as a volunteer in community organizations, and as a constructive critic of public institutions, officials, and policies.

A key section of the Standards emphasizes how citizens take part in civic life. To understand the life of citizenship, they must be adept at civic arts and know the avenues available for participation. They need to understand the difference between social and political participation, and grasp such notions as the distinction between civil disobedience and revolution or rebellion. Above all, they must see how democracy depends upon attentive, knowledgeable, and competent citizens who care about their fellow citizens and their country.

The *National Standards for Civics and Government* is available from the Center for Civic Education, 5146 Douglas Fir Road, Calabasas, CA 91302-1467. Call toll free, 800/350-4223 or FAX: 818/591-9330. You may order 1-9 copies for $12.00 per copy. Ten or more copies are $11.00 per copy. Add 10% for shipping and handling costs.

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# *ESSENTIALS OF LAW-RELATED EDUCATION*

*Essentials of Law-Related Education: A Guide for Practitioners and Policymakers* is a statement of the goals and content of law-related education (LRE). Developed by the American Bar Association's Special Committee on Youth Education for Citizenship in 1995, *Essentials of Law-Related Education* concentrates on four areas: (1) subject matter and concepts; (2) instructional strategies and contexts; (3) skills; and (4) attitudes, beliefs, and values. Together, they provide K-12 students with active learning experiences that enhance their ability to explore rights and responsibilities under the law, confront and resolve disputes, and discuss and analyze public issues. This digest summarizes the original *Essentials* document.

LRE has been defined as "education to equip nonlawyers with knowledge and skills pertaining to the law, the legal process, and the legal system, and the fundamental principles and values on which these are based" (Law-Related Education Act of 1978). LRE is typically understood to foster the knowledge, skills, and values that students need to function effectively in our pluralistic, democratic society based on the rule of law. Law-related educators strive to develop the active citizens our society requires: those who can understand, live in, and contribute positively to the civic communities to which they belong.

Law saturates our lives irrespective of age or setting. Consequently, LRE focuses on real issues that affect real people in real situations. Through LRE, educators seek to elucidate essential concepts—including law, power, justice, liberty, and equality—fundamental to our constitutional democracy and to the structure and functioning of other societies. LRE enables educators to teach how the law and legal issues are essential to the functioning of politics, culture, and society. In so doing, it explores how the law affects students and how they, in turn, can affect the law. LRE strives to illuminate the substantive and procedural values underlying our legal system, fostering the formation of beliefs and attitudes that support such values.

**What Subject Matter Is Essential?** Concepts central to LRE include law, justice, power, equality, property, and liberty. Through LRE, teachers can teach what abstract concepts such as "liberty" actually mean through examination of specific contexts and practices. For example, they can help students understand "liberty" by giving them opportunities to learn about liberties guaranteed under the U.S. Constitution. With that knowledge, students can become aware that such liberties can still be the source for continuing controversies in contemporary society, such as when individual liberties conflict with majority values or public policy priorities.

The relationship between citizen and society is essential to LRE, which should illustrate significant connections between students and larger communities, such as town, nation, and world. Some law-related educators might focus primarily on law that affect the daily lives of all people, including criminal and civil law. Others might concentrate on fundamental legal concepts and principles, including their origins, evolution, and contemporary influence and impact. Still others might stress the application of LRE principles and skills in specific real-world situations, both personal and civic. LRE instruction should recognize that government use of power and authority can bring both order and the risk of abuse. Law-related educators might help students understand that the Constitution limits governmental power by separating, and sharing it. Educators might also ask students to ponder the relationship between power and law, considering such topics as civil disobedience, conscientious objection, capital punishment, and victimless crimes.

LRE emphasizes the role of due process of law as essential to justice in our system of governance. Teachers might focus on justice through civil, criminal, and juvenile law, or through such topics as mercy killing or cruel and unusual punishment. In dealing with equality, teachers might have students study issues of racial or gender discrimination, voting rights, or affirmative action. In so doing, students will be able to reflect on the difference between equal opportunity as a constitutional ideal and as a day-to-day reality.

**How and Where Should LRE be Taught?** Law-related educators should require students to participate actively in their own learning. For instance, by using role play in the classroom, teachers can encourage students to voice diverse opinions about legal issues. By having students compare and contrast several court decisions on one issue, teachers can encourage students to address judicial decisions in historical context, assess the role of precedent, and comprehend the nature of historical and social change. In helping students stage mock trials, teachers can enable students to experience the judicial process.

The classroom that best fosters LRE is student focused. The ideal LRE classroom acts as a forum where students can freely

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**Adapted by Robert S. Leming, Director of the Indiana Program for Law-Related Education of the Social Studies Development Center, Indiana University.**

discuss conflicting ideas. In drawing such ideas from a cross-section of subjects, teachers give students a taste of the complexity of legal issues. LRE classrooms should have diverse, high-quality resources that provide students with the information they need while conveying the fact that different people can legitimately and reasonably have different opinions and perspectives on issues. Enlisting LRE professionals (lawyers, law-enforcement professionals, judges, scholars, for example) from the community as human resources for in-class and out-of-class instruction is an essential means by which LRE meets students' needs in these respects.

LRE does not need to be restricted to one class, course, or subject area. The constellation of values, knowledge, and skills that comprise LRE can be woven throughout the school curriculum beginning in the primary grades. Effective LRE programs should consist of carefully planned, integrated, sequenced, and cumulative instructional experiences. For instance, beginning with the early grades, LRE might emphasize fundamental concepts and values such as justice, liberty, and equality. In later grades, such concepts and values can be addressed through examination of more complex issues and dimensions of our shared constitutional ideals, and their national and global implications.

**What Skills Should LRE Foster?** Law-related educators should help students develop the skills needed to acquire information about the role of law in constitutional democracies and other societies and how it is connected to their lives; how they can communicate their ideas, beliefs, and opinions about the law and legal issues; and how they can actively and constructively participate in group or broader civic affairs. Thinking skills developed in LRE include analyzing and interpreting judicial opinions and other legal documents; developing a capacity for understanding when and how laws apply to specific fact situations; critically assessing laws and legal issues; and developing a capacity for understanding and evaluating controversies and conflicts arising from legal issues. LRE also develops students' communication and social participation skills, including persuading others regarding beliefs and actions related to the law; participating collectively in making rules and setting goals; building consensus through deliberation, negotiation, compromise, and conflict resolution; and working cooperatively to make decisions and take actions concerning hypothetical or actual legal and law-related social issues.

**What Attitudes, Beliefs, and Values Should LRE Foster?** LRE does more than provide students with information about the law and legal issues while developing essential skills. It also cultivates certain attitudes, beliefs, and values in students as both essential preconditions for, and outcomes of, students' understanding in LRE. These essential attitudes, beliefs, and values include a commitment to constitutional democracy; dedication to the ideal of justice in society; informed, active, and responsible participation in civic life; respect for the fundamental dignity and rights of humans; and appreciation for legitimately resolving societal conflicts and differences. LRE helps students understand both how law reflects and shapes collective values, beliefs, and dispositions and, in turn, how collective values, beliefs, and dispositions reflect and shape law. In so doing, LRE also helps students understand how law can and has promoted social cohesion and effected social change.

**How Can You Obtain *Essentials of Law-Related Education?*** *Essentials of Law-Related Education* can be obtained by writing to the ABA/YEFC, 541 North Fairbanks Court, Chicago, IL 60611-3314 or by calling 312/988-5735. The price per copy is $3.00 + $2.00 s/h; orders should be prepaid.

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ERIC Digest EDO-SO-96-4 July 1996

# We the People... The Citizen and the Constitution

## by Robert S. Leming

"We the People... The Citizen and the Constitution" is a national civic education program that helps elementary and secondary students understand the history and principles of our constitutional government. In addition, the program helps students develop a reasoned commitment to values that are integral to sustaining a democratic society. The program focuses on the U.S. Constitution and Bill of Rights and fosters civic competence and responsibility among students in public and private schools. The program is administered nationally by the Center for Civic Education through a network of 435 congressional district coordinators and 50 state coordinators. The program also includes the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands. More than 20 million students and 70,000 teachers have been involved in the "We the People..." program.

**The "We the People..." Curriculum.** The "We the People..." curriculum was developed by the Center for Civic Education and is presently funded by the U.S. Department of Education through an act of Congress. The program began in 1987 under the auspices of the Commission on the Bicentennial of the United States Constitution and Bill of Rights. The curriculum was written in consultation with leading scholars and educators from throughout the United States.

The upper elementary, middle, and high school textbooks examine the history and principles found in our Constitution and Bill of Rights through lessons that correspond to the essential questions guiding the National Standards for Civics and Government. The following are unit titles for the high school textbook: What are the philosophical and historical foundations of the American political system? How did the framers create the Constitution? How did the values and principles embodied in the Constitution shape American institutions and practices? How have the protections of the Bill of Rights been developed and expanded? What rights does the Bill of Rights protect? What are the roles of the citizen in American society? The unit questions in the upper elementary and middle school textbooks are similar in content. The "We the People..." curriculum complements the regular school curriculum and enhances the study of history and government. Students are encouraged to use critical thinking skills in a cooperative effort to master the content of the course and then demonstrate their knowledge through written and verbal assessments.

**The Simulated Congressional Hearing.** In addition to a comprehensive written test, the Center for Civic Education has also developed a culminating activity that simulates a congressional hearing. The hearing enables students to demonstrate through written speeches and oral communication what they have learned during the study of the textbook. Groups of three to six students participate as expert witnesses appearing before a panel of community members acting as congressional committee members. The hearings involve the whole class; students are responsible for the entire curriculum and specialize in one of the six units of the "We the People..." textbook (five units in the upper elementary textbook). Teachers are encouraged to involve community member experts as resources in their classrooms during preparation for the hearings.

The congressional hearing involves two parts. First, students present their prepared four-minute statements that answer unit questions designed by the Center for Civic Education. During the second part (six minutes), judges ask follow-up questions to probe the extent of students' understanding of the Constitution and constitutional issues. A panel of judges evaluates student responses using the criteria of understanding, constitutional application, reasoning, supporting evidence, responsiveness, and participation. Both the prepared questions developed by the Center and the follow-up questions asked by the judges are designed to help students reach higher levels of thinking.

At elementary and middle school levels, hearings are noncompetitive and can be conducted any time during the school year in the classroom or in more elaborate settings that encourage parents and community members to be involved as judges or observers. High school classes may conduct the hearings as a single class event or may choose to participate in congressional district, state, and national level competitions. Each year in the fall and early winter, classes throughout the nation participate in congressional district hearings. The winning class from each congressional district attends a state final held in the winter. The winning class at the state level represents the state at the national finals held in Washington, DC in late April.

**Research Studies Confirm Effects of the Program.** The Program Effectiveness Panel of the U.S. Department of Education's National Diffusion Network examined the reports of various research studies on the "We the People..." program and validated the powerful educational effects of the program on students' civic knowledge and attitudes. Several studies by the Educational Testing Service (ETS) in 1988, 1990, and 1991 concluded that students enrolled in the "We the People..." program at upper elementary, middle school, and high school levels "significantly outperformed comparison students on every topic of the tests taken."

In 1994, Stanford University Professor Richard Brody's study entitled, *Secondary Education and Political Attitudes: Examining the Effects of Political Tolerance of the "We the People..." Curriculum*, found that high school students taking part in the "We the People..." program develop a stronger attachment to political beliefs, attitudes, and values essential to living in a democracy than other students and most adults. The Brody study, based on 1,351 student responses, suggests that students involved in the "We the People..." program exhibit more political tolerance. They would place fewer restrictions on the speech, press, and the freedom of assembly of groups with diverse opinions, and they would place fewer restrictions on due process. In addition, the study revealed that students involved in the competitive format are more interested in politics, feel more politically effective, and perceive fewer limits on their own political freedom.

In 1994, the Council for Basic Education (CBE) conducted

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ethnographic case studies on the effects of the "We the People..." program in an effort to assess attributes that are not amenable to quantification. The Council's research indicates that "teachers feel excited and renewed.... Students are enthusiastic about what they have been able to accomplish, especially in terms of their ability to carry out a reasoned argument. They have become energized about their place as citizens of the United States" (Council for Basic Education 1994). The case studies also reveal that "without exception, teachers asserted that the [simulated congressional hearing] competition had a significant effect on student learning" (Council for Basic Education 1994).

The findings of an earlier study by the Council for Basic Education supported by the Office of Technology Assessment of the U.S. Congress substantiated the effectiveness of the "We the People..." program in goal attainment and higher level student learning. In her 1992 *Testing for Learning*, based on the findings of that study, author and principal investigator Ruth Mitchell asserts: "The competition has enormous potential as a model for the evaluation of history/social studies and government classes. It is the most imaginative and well-organized social studies assessment I know of—more impressive than current ideas at the state level."

In 1993, the Social Studies Development Center conducted a study examining the understanding of the Bill of Rights by high school students. The study compared 477 students who attended traditional government classes with 375 students who attended classes involved in the "We the People..." program. The results of the study indicate that 79% of the students enrolled in the classes using the "We the People..." curriculum performed better than the students enrolled in the traditional government classes. This "suggests that students participating in the 'We the People...' program gained knowledge and understanding of the Bill of Rights that is superior to students in government classes using traditional textbooks" (Leming 1993).

**Information about the "We the People..." Program.** For more information about the program, contact the Center for Civic Education, 5146 Douglas Fir Road, Calabasas, California 91302-1467. The telephone number is (800) 350-4223. The fax number is (818) 591-9330. The e-mail address is center4civ@aol.com.

*"We the People... The Citizen and the Constitution"* high school classroom sets include 30 student books, a teacher's guide, a program participation handbook, 30 multiple choice tests, materials for performance assessment, and 30 certificates of achievement. A classroom set costs $250 plus 10% for shipping and handling costs. The student book is $10 (over 10 copies - $9 each). The teacher's guide is $7.50.

The middle school and upper elementary classroom sets include 30 *"We the People..."* student books and teacher's guide, the supplementary student text *With Liberty and Justice for All* and teacher's handbook, an instructional packet, 30 multiple choice tests, materials for performance assessment, and 30 certificates of achievement. The middle school classroom set costs $160 plus 10% for shipping and handling costs and the upper elementary classroom set costs $150 plus 10% for shipping and handling costs.

A few sets are available to each United States congressional district FREE OF CHARGE. Contact the Center for Civic Education for additional information.

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# Teaching about Landmark Dissents in United States Supreme Court Cases

### by Robert S. Leming

Since the Marshall Court in the early nineteenth century, the U.S. Supreme Court has issued a single opinion indicating its decision in a case. The Court disposes of each case it reviews by majority rule (typically either affirming or reversing) and provides a rationale for its decision. The disposition and rationale are both critical elements of the Court's decision. In providing reasons for its decision, the Court may offer constitutional interpretations which have a significant impact on American law and society. Moreover, what often makes Court cases compelling as human drama is that they typically involve real people engaged in disputes which have been brought to the justice system for resolution. This is the "disposition" of a case.

In cases where some justices do not agree completely with the Court's decision, they may write or join concurring and dissenting opinions. In "concurring" opinions, justices agree with the majority regarding the outcome of the case, but disagree, in some way, with the reasons that support the outcome. In "dissenting" opinions, justices disagree with the outcome of the case and present rationales for their views. Justices offer reasons for their decisions based upon their understanding of law, history, and policy.

Unlike the Court's majority opinions, dissents have no legal force. Typically, they simply provide justices disagreeing with the majority an opportunity to express their dissatisfaction with the outcome and explain their disagreement. Nevertheless, dissenting opinions can have a greater impact. For instance, they might encourage federal legislation to reverse or limit the Court's decision. Moreover, dissenting justices may hope to influence, ultimately, the Court itself in future decisions. While the Court typically follows its own precedents in deciding cases (under the established judicial principle of *stare decisis* or "let the decision stand" in Latin), it has, on occasion, overturned or significantly modified its own earlier decisions. In exceptional cases, dissents have attained landmark status in American legal history in that they influenced subsequent reversals by the Court or otherwise have come to articulate revised opinions of the Court on significant matters of constitutional interpretation and public policy.

**Infusion of Landmark Dissents into the Curriculum.** Landmark dissents, those which influenced subsequent Court decisions, should be included prominently in United States history and government courses. Notable examples are the dissenting opinions in *Plessy* v. *Ferguson* (1896), *Olmstead* v. *United States* (1928), *Minersville School District* v. *Gobitis* (1940), and *Betts* v. *Brady* (1942).

One of the most influential dissents was crafted by Justice John Marshall Harlan in the 1896 case of *Plessy* v. *Ferguson*. Homer Plessy, acting on the behalf of a Louisiana Citizen's Committee formed to protest laws established to keep blacks and whites separate, bought a first-class ticket on a Louisiana train. Plessy, who had one great-grand parent of African descent, boarded the train and sat in a railroad car reserved for whites only, ignoring the coach marked "colored only." After refusing to change seats, Plessy was arrested for violating the Separate Car Law requiring separate railroad seating for blacks and whites.

The central issue in this case involves the question of whether or not the state law requiring separate railroad accommodations violated the 13th Amendment's outlawing of slavery or the 14th Amendment's guarantee of equal protection of the laws for all citizens. The Supreme Court ruled against Plessy, holding that the "equal protection of the laws" clause of the 14th Amendment allowed "separate but equal" facilities for blacks. The Court also ruled that the Separate Car Law did not violate the 13th Amendment's ban on slavery.

The lone dissent in *Plessy* was written by Justice John Marshall Harlan who wrote, "But in view of the Constitution, in the eye of the law, there is in this country no superior class of citizens. There is no caste here. Our Constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law." Justice Harlan, who had been a slave owner from Kentucky, warned future generations against the evils of giving a legal sanction to class distinctions.

In 1954 the Court, in line with Justice Harlan's dissent, finally ended over 50 years of "separate but equal" legislation with the *Brown* v. *Board of Education* ruling which struck down laws that enforced racial segregation in public schools.

In the 1928 U.S. Supreme Court case of *Olmstead* v. *United States*, decided by a 5-4 vote, Justice Louis Brandeis' dissenting opinion argued for a constitutional right to privacy and warned future generations about the advancement of technology and its possible intrusion into constitutionally protected areas. In 1924, Mr. Ralph Olmstead stood accused of violating the Volstead Act (1920) which outlawed the transportation or sale of alcoholic beverages anywhere in the United States. The evidence against Olmstead was gathered through the use of electronic wire-tapping of Olmstead's office and home. Olmstead claimed his Fourth and Fifth Amendment rights had been violated. Olmstead believed the search of his house and office was illegal and that his conversations should not be used to self-incriminate him in court. The U.S. Supreme Court, however, did not agree with Olmstead. Chief Justice William Howard Taft argued that the search of Olmstead's property did not violate the Fourth Amendment's protection against unreasonable searches and seizures because the police did not physically enter Olmstead's house or office and

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seize physical evidence. Rather, the police overheard telephone conversations over "...wires reaching into the whole world from the defendant's house or office."

Justice Louis Brandeis, one of four justices dissenting in this case wrote, "The progress of science in furnishing the Government with means of espionage is not likely to stop with wire-tapping. Ways may some day be developed by which the Government, without removing papers from secret drawers, can reproduce them in court, and by which it will be enabled to expose to a jury the most intimate occurrences of the home." Justice Brandeis further argued that the "right to be let alone" was the most important right available to mankind.

Forty years later the U.S. Supreme Court embraced Brandeis' opinion in the 1967 *Katz* v. *United States* case which overturned the *Olmstead* decision. The *Katz* decision (7-1) concluded that wiretaps and other types of electronic surveillance were unconstitutional because they violate an individual's right to be protected against unreasonable searches and seizures.

In 1940, the Court decided the case of *Minersville School District* v. *Gobitis*, which upheld a flag salute requirement for students attending a public school. Two students, Lillian and William Gobitis, were members of the Jehovah's Witnesses faith, which believed that saluting the flag was a crime against God. They were expelled from school for not saluting the American flag. The Court, in its 8-1 decision, argued that religious freedoms must yield to state authority as long as the state was not directly restricting or promoting religion. Justice Harlan Fiske Stone dissented, arguing that religious freedom was outside the jurisdiction of the government. Three years later, in a 6-3 decision, the Court reversed itself in *West Virginia State Board of Education* v. *Barnette*. The decision was reversed, in part, because Justice Stone had become the Chief Justice and two new members had joined the Court.

In 1942, Justice Hugo Black dissented in the *Betts* v. *Brady* case, decided 6-3, by arguing that defendants in state courts should have the same right to counsel that defendants do in federal courts. Justice Black's dissent relied on his own opinion in an earlier case, *Johnson* v. *Zerbst* (1938), when he wrote, "The Sixth Amendment stands as a constant admonition that if the constitutional safeguards it provides are lost, justice will not 'still be done.' It embodies a realistic recognition of the obvious truth that the average defendant does not have the professional legal skill to protect himself when brought before a tribunal with power to take his life or liberty." The Court, however, rejected Black's argument, refusing to extend the right of counsel to defendants in noncapital felony cases at the state level.

Justice Black's opinion became the majority view in 1963 when the Court overturned *Betts* in *Gideon* v. *Wainwright* in a 9-0 decision. In *Gideon* the Court ruled that the Sixth Amendment, as applied to the states by the Fourteenth Amendment, required that indigent defendants charged with serious offenses in state criminal trials must be represented by counsel.

**Instructional Strategies for Teaching Dissents.** A moot court simulation is a very exciting method that involves students in a role play of the United States Supreme Court. Students are exposed to the opinions developed by the Supreme Court Justices and are given the opportunity to develop their own arguments and express them in written and oral forms. A moot court simulation allows for historical connections to be made between cases and their effect on the American judicial system and American society.

Another effective instructional strategy is the case study method, in which students are encouraged to carry out the following steps: review the background information and the facts; determine the main issue(s); examine different arguments on the issue; consider the decision (with majority and minority opinions) and legal reasoning; and assess the implications and historical significance of the case.

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# Part II

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# Law Studies Courses

# Law Studies Courses

> *"Schools must remember that they are not primarily for helping students acquire jobs, get into college, or develop a better self-concept. As worthy as these goals may be, they are less important than the school's distinctly* ***civic*** *mission: to educate students to be capable of -- and passionately committed to -- meeting the challenges of the democratic way of life."*
>
> *Walter Parker, University of Washington*

Law studies programs in their abiding essence are to meet the civic commitments of the community in which they are located. Our schools are called public schools, not to serve students' needs as individuals or their parents' demands, but first to serve their *civic* mission to the totality of the community in the spirit of the highest values in the American political tradition.

Given the social and educational problems facing society, American law studies programs are a continuing response to teach those highest democratic values which not only lead to understanding, but also to passionate commitment to their validity and to their continued application to real cases and issues in community life. The values of equality, equity , freedom, and fairness (to list but a few) are then not icons on some civic altar or trophies under glass in a case, but are to be lived educationally in the classroom and then continually recreated through behavior, facing real community dilemmas.

The fundamental belief of law studies educators is that active, appropriate law studies programs can and will impact students' behavior in pro-social ways over a lifetime. (See figure 1)

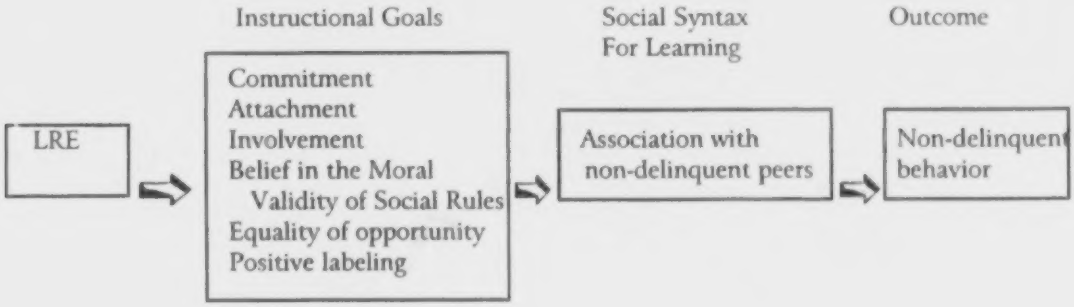

*Figure 1.*

Historically in the state of Florida, law studies was associated with two types of systematic experiences -- first, as study of the *consequences of crime* and second, the Street Law approach which offers a real-world based, practical grounding for high school-aged citizens. Outlines for these approaches are provided below.

Two special, off-school site programs in law studies emerged wherein students would learn about the law in courtrooms through observation and frequent interaction with attorneys, law enforcement officers, judges, and others associated with the justice process. The first such program is a semester "course" in **Court Procedures** which may be followed by a semester "course" in **Court Procedures Internship**. The curriculum frameworks with the major educational outcomes are provided below.

Today, in Florida's high schools three courses are the staple offerings to students in law studies. The first is a semester course in **Legal Systems and Concepts**. A more intellectually demanding semester-long course, **Law Studies**, is more frequently offered. And, a two-semester course, **Comprehensive Law Studies**, is available. The curriculum frameworks with the major educational outcomes are provided below.

In addition to these course approaches, this section provides law studies teachers with a sample **Attitude Survey** to be modified to serve as an instructional springboard at the opening of a law studies course, or as a possible pre- and post course or program opportunity for students to reveal to themselves the changes and constants in their view.

*Part II Table of Contents*

A. Fundamental Goals of Law Education Focused Upon the Consequences of Crime and Rule-Breaking

B. The Street Law Approach Course Outline

C. Court Procedures Course Outline

D. Court Procedures Internship Course Outline

E. Legal Systems and Concepts Course Outline

F. Law Studies Course Outline

G. Comprehensive Law Studies Course Outline

H. Law Studies Attitude Survey (informal)

## A.

## Fundamental Goals of Law Education Focused Upon The Consequences of Crime and Rule-Breaking

1.0 Law and Human Behavior in Social System

1.1 Stating the functions of rules /laws in a society or social institution

1.11 *Social rules* = written or unwritten social expectations about social behavior

1.12 *Laws* = formal, written rules regarding human behavior which are enforced by the power of government authority

1.2 Explaining social expectations which develop in a society also in terms of general norms affecting everyone and role-specific expectations, affecting those persons as they play specific social roles.

1.3 Explaining the process of making legitimate, written rules/laws in a society or social institution, in terms of decision-makers, power and authority.

1.4 Defining the fundamental concepts by examples and by attributes in school and family rules and in those laws enforceable in the juvenile and criminal justice systems.

1.5 Defining the fundamental processes of legitimate rule/law enforcement within the school environment and within the environments of the juvenile and the adult criminal justice systems.

1.6 Projecting the alternative courses of action open to law enforcement personnel, school authorities, and officials in the juvenile justice and criminal justice systems in dealing with adjudicated rule/law breakers.

1.7 Explaining how individuals, groups, and authorities use social rewards and non-rewards (punishments) to support social rules/laws and to promote rule/law following behavior.

1.8 Explaining the responsibilities of citizens toward reasonable rules/laws, and citizen duties toward legitimate authority and law enforcement personnel.

1.9 Evaluating rules/laws in terms of their functions, purposes, clarity, and practical consequences.

2.0 Law and Specific Social Situations

2.1 Recalling what the rules/laws are in a given social situation.

2.2 Comprehending what a specific law says, translating the rule/law into one's own words.

2.3 Applying the specific rule/law to a specific case situation (real or hypothetical) to see if the rule/law applies in that situation and to determine if the rule/law has been violated explaining one's conclusions.

2.4 Defining by examples and attributes the concepts in a specific rule/law.

2.5 Predicting the consequences of violating or following a rule/law for all of those potentially affected, including society at large.

2.6 Identifying the "victims" of rule/law violations, and predicting the consequences for them (e.g., feelings, self-concept, changes in life situation, etc.)

2.7 Explaining the procedures for dealing with rule/law violators in a) schools, b) the juvenile justice system and c) the adult criminal justice system.

2.8 Projecting the alternative courses of action open to persons responding to rule/law violators, and the purpose of these responses (ranging from revenge and punishment to restoring the web of social reciprocity).

2.9 Identifying reasonable actions open to school authorities and law enforcement personnel in dealing with rule/law violators, and to list the key factors which influence their judgements about appropriate actions (e.g., prior record, attitude, restitution, intent, etc.)

2.10 Taking and justifying a position on what should be done in a specific case of rule/law breaking and on a public policy issue about rules/laws and their enforcement.

2.11 Projecting the alternative course of action open to persons and groups in a situation where the persons or groups decide to break the rule/law.

2.12 Explaining the reasons for a specific rule/law in terms of a) who benefits, b) an assessment of the advantages and disadvantages of that rule/law; and c) a prediction about how life would be different without this rule/law.

2.13 Evaluating the application of a rule/law in social settings, in terms of consistency, fairness and consequences.

## B.

## The Street Law Approach Course Outline

- I. Introduction to the Law and the Legal System
    - A. What is Law?
    - B. Kinds of Laws
    - C. Lawmaking
    - D. Settling Disputes Out of Court
    - E. The Adversary System
        - 1. Judges and Juries
    - F. Lawyers

- II. Criminal Law and Juvenile Justice
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*Reprinted from Street Law: A Course in Practical Law, Fifth Edition, 1994, National Institute for Citizen Education in the Law. West Publishing Company.*

C.

## Court Procedures Course Outline
## Florida Department of Education Course #2106390
## Credits: 0.5

A. **Major concepts/content**. Students develop their ability to function effectively in society by understanding the judicial system of the United States and Florida.

The content should include, but not be limited to the following:

- structure, processes, and procedures of county, circuit and federal courts
- civil and criminal procedures
- juvenile law
- the rights of the accused
- evolution of court procedures
- comparative legal systems
- career choices in the judicial system

B. **Intended outcomes**. After successfully completing this course, the student will:

1. Evaluate the effectiveness of courtroom procedures.

2. Compare types of cases and procedures in county, circuit and federal courts.

3. Compare juvenile and adult legal procedures.

4. Identify rights of defendants and victims in the judicial process.

5. Recognize the impact of diverse cultural groups on the judicial system.

6. Develop and defend recommendations for improvements in the judicial system.

7. Describe the duties and functions of the roles within the judicial system.

8. Explore career opportunities in the judicial system.

9. Apply research, study, critical-thinking and decision-making skills and demonstrate the use of new and emerging technology in problem solving.

## D.

## Court Procedures Internship Course Outline
## Florida Department of Education Course #2106400
## Credits: 0.5

A. **Major concepts/content.** Students develop an understanding of the legal system and court procedures and are provided an opportunity to participate in the judicial process.

The content should include, but not be limited to the following:

- structure, processes and procedures of county, circuit and federal courts
- civil and criminal procedures
- juvenile law
- the rights of the accused
- evolution of court procedures
- career choices in the judicial system

B. **Intended outcomes.** After successfully completing this course, the student will:

1. Recognize the dynamics of change that are basic to the judicial process.
2. Develop and defend recommendations for improvements in the judicial system.
3. Develop an in-depth case study of a role or function within the judicial system.
4. Recognize alternatives to formal courtroom hearings.
5. Explore career opportunities in the judicial system.
6. Examine the experiences of women and diverse cultural groups in the court system.
7. Apply research, study, critical-thinking, and decision-making skills and demonstrate the use of new and emerging technology in problem solving.

# E.

# Legal Systems and Concepts Course Outline
## Florida Department of Education Course #2106380
## Credits: 0.5

A. **Major concepts/content**. Students learn that the American legal system is the foundation of American society. They examine the American legal system and the nature of specific rights granted under the United States Constitution.

The content should include, but not be limited to the following:

- need for law
- basis for the American legal system
- constitutional rights and responsibilities
- precedent-setting cases involving individual rights
- roles involving individual rights in the criminal justice system

B. **Intended outcomes**. After successfully completing this course, the student will:

1. Identify historical antecedents for our laws and the basis for the creation of laws.
2. Investigate the background, principles and applications of the United States Constitution.
3. Explain the rights protected by the Constitution and identify precedent-setting cases related to these rights.
4. Recognize the process for enacting criminal laws at the state and local levels.
5. Analyze the stages of the criminal justice system.
6. Identify government and private agencies which provide services to individuals accused of crimes.
7. Evaluate the citizen's role in law-making and law enforcement.
8. Explore careers in the justice system.
9. Analyze the role of women and diverse cultural groups within the justice system.
10. Apply research, study, critical-thinking and decision-making skills and demonstrate the use of new and emerging technology in problem solving.

## F.

## Law Studies Course Outline
## Florida Department of Education Course #2106350
## Credits: 0.5

A. **Major concepts/content**. Students learn that the American legal system is the foundation of American society. In order to function effectively, students examine those laws which have an impact on citizens' lives and are provided with an introduction to fundamental civil and criminal justice procedures.

The content should include, but not be limited to the following:

- need for law
- basis for our legal system
- civil and criminal law
- adult and juvenile courts
- family and consumer law
- causes and consequences of crime
- individual rights and responsibilities
- career opportunities in the legal system

B. **Intended outcomes**. After successfully completing this course, the student will:

1. Understand the nature of law in a free society, the fundamental values underlying our justice system and the place of law in preserving order in society.

2. Understand how civil and criminal laws are made at the federal, state and local levels of government and how these laws are employed in the various federal and state courts.

3. Examine the role that lawyers, law enforcement officers, correction officers and court officials play in our judicial system.

4. Analyze the adult criminal justice system, Florida's juvenile justice system and the rights and responsibilities afforded individuals in these systems of justice.

5. Investigate causes and consequences of crime.

6. Examine civil and criminal laws and procedures as they relate to family and consumer law.

7. Analyze the role of women and diverse groups in the legal system.

8. Apply research, study, critical-thinking and decision-making skills and demonstrate the use of new and emerging technology in problem solving.

## G.

## Comprehensive Law Studies Course Outline
## Florida Department of Education Course #2106370
## Credits: 1.0

A. **Major concepts/content.** Students learn that the American legal system is the foundation of American society. They examine the components and processes associated with the American legal system and are provided with a comprehensive examination of the civil and criminal justice systems.

The content should include, but not be limited to the following:

- historical antecedents for law
- reason for laws
- civil and criminal law
- social values and their impact on the establishment and interpretation of laws
- causes and consequences of crime
- comparison of adult and juvenile justice systems
- significance of the Bill of Rights to the American legal system
- family and consumer law
- rights and responsibilities under the law
- importance of the adversarial relationship in American jurisprudence

B. **Intended Outcomes.** After successfully completing this course, the student will:

1. Formulate a rationale for the regulation of human behavior in a society.

2. Distinguish between civil and criminal law, including the legislative process and the judicial process.

3. Analyze the stages of both a civil and criminal proceeding.

4. Evaluate the economic and social impact of civil and criminal justice.

5. Evaluate the alternatives available to the courts in sentencing offenders.

6. Investigate causes and consequences of crime.

7. Recognize the citizen's role in law making and law enforcement.

8. Describe and evaluate career opportunities available in the legal system.

9. Analyze the role of women and diverse cultural groups within the legal system.

## H.

## Law Studies Attitude Survey

Instructions: For each section, please indicate your agreement or disagreement with the following statements by responding:

**1 - strongly agree 2 - agree 3 - undecided 4 - agree 5 - strongly agree**

### OUR LEGAL SYSTEM

1. _____ Our system of law is just.
2. _____ The American litigation system is an efficient way of handling disputes between people.
3. _____ It takes too long to make a new law in our country.
4. _____ There are areas of life which should not be affected by law.
5. _____ Every state in the U.S. should have identical laws.
6. _____ Obtaining justice through the litigation process requires a lot of money.
7. _____ A person cannot get justice without a good lawyer.
8. _____ Lawyers play a very important role in resolving disputes.
9. _____ People should always see a lawyer before entering into a contract.
10. _____ I know how to find a good lawyer, should I ever need one.
11. _____ Lawyers should be allowed to advertise their services.
12. _____ A good lawyer can win any type of case.

### INDIVIDUAL RIGHTS AND LIBERTIES

1. _____ I can think of examples where the Bill of Rights “works” in my daily life.
2. _____ I have felt at least once that my basic rights were infringed upon by another person.
3. _____ Some basic rights are more important than others in modern society.
4. _____ People should be free to say anything, even if the words are motivated by hate.
5. _____ Violence on TV encourages violence in real life.
6. _____ Discrimination still exists in American society.
7. _____ I have witnessed/encountered racial discrimination at school or work.
8. _____ I have witnessed/encountered gender discrimination at school or work.
9. _____ I know my rights as a youthful U.S. Citizen.
10. _____ I know the rights of juveniles in the workplace.
11. _____ Victims of sexual harassment in the workplace are generally treated fairly if they file a formal complaint.
12. _____ I have witnessed/encountered sexual harassment on the job.

### CRIME & CRIMINAL JUSTICE

1. _____ I feel safe from violence at this school.
2. _____ I feel safe from crime at this school.
3. _____ I support giving up privacy to ensure safety and discipline at school.
4. _____ Going to school is more dangerous now than when my parents were my age.

5. _____ Having police on campus is effective.
6. _____ Having metal detectors on campus is effective.
7. _____ Criminals are held accountable for their actions in this country.
8. _____ The poor are treated fairly by the criminal justice system.
9. _____ Celebrities are treated no differently by the criminal justice system.

## JUVENILE JUSTICE

1. _____ Eighteen is still the proper age to be considered an adult.
2. _____ Parents should be held responsible for the actions of their children.
3. _____ A juvenile's crime record doesn't really "count" once they become an adult.
4. _____ Juveniles should be sentenced like adults in court.
5. _____ Juvenile offenders should be able to continue their education while incarcerated.
6. _____ I support a separate system of criminal justice for juveniles.
7. _____ Juveniles are generally treated fairly by the criminal justice system.

## TRIAL BY JURY

1. _____ I would rather have my case decided by a jury than a judge.
2. _____ Juries are always impartial and fair.
3. ____ The media should have access to videotape any trial.

## CONFLICT RESOLUTION

1. _____ People should try to resolve their differences before seeing an attorney.
2. _____ People are generally willing to solve their conflicts through discussion instead
of violence.
3. _____ There are benefits to settling a dispute out of court.
4. _____ People would get along better if they could communicate and listen better.
5. _____ I am a good communicator.
6. _____ I am a good listener.
7. _____ I would rather "win" a dispute than compromise.

## ETHICS

1. _____ Honor Codes and Codes of Conduct are effective at this school.
2. _____ People my age deserve more privacy and trust at school.
3. _____ I believe in mandatory drug testing when applying for a job.
4. _____ Taking a pen or paper home from work is stealing.
5. _____ I am generally honest in dealing with other people.
6. _____ When asked, I should come to the aid of the police.
7. _____ We all have a duty to report crimes to the lawful authority.

## THE ROLE OF THE CITIZEN

1. _____ One person can make a difference in society.
2. _____ People should volunteer their time to help others.
3. _____ Community service projects can help students learn more in school.
4. _____ Community service should be a requirement for high school graduation.
5. _____ The government, not citizens, should take care of social problems.

## TORT LAW

1. _____ Suing is often the most effective way to settle a dispute in this country.
2. _____ It is easy to make money by suing another person.
3. _____ People sue each other too much in this country.
4. _____ There should be a limit on how much money a person can win in a lawsuit.
5. _____ People should receive more monetary compensation for intangible losses (companionship of a loved one) than tangible ones (a car or home).

## CONSUMER LAW

1. _____ Consumers are adequately protected by the law.
2. _____ People are often victims of false advertising.
3. _____ There are disadvantages to obtaining credit.
4. _____ Buying a car is a fairly simple process.
5. _____ Younger drivers should pay more for car insurance than more experienced drivers.

## FAMILY LAW

1. _____ Families in America are less stable than they were 40 years ago.
2. _____ The law should define what is and is not considered a family.
3. _____ American society encourages people to marry within their own ethnic group.
4. _____ American society encourages people to marry within their own religious group.
5. _____ American society encourages people to marry at their own economic level.
6. _____ There should be no minimum "age of consent" to get married.
7. _____ Couples should be required to complete a course of pre-marital counseling before getting married.
8. _____ People do not take marriage seriously enough in this country.
9. _____ It is too easy to get a divorce in this country.
10. _____ Parents should not stay married "for the sake of the kids."
11. _____ The criminal justice system treats victims of spousal abuse fairly.
12. _____ I have known a victim of child abuse.
13. _____ Everyone should have a will.

## HOUSING LAW

1. _____ The location of a home is more important if you buy than if you rent.
2. _____ Tenants are adequately protected under the law.
3. _____ Renter's insurance is important even if you are "just starting out."

## SPORTS LAW

1. _____ Professional athletes generally make too much money.
2. _____ Sports are too violent in this country.
3. _____ College athletes can earn the same quality education as everyone else at their school.

Name (optional): 55

# Part III

◆

# Criminal Justice Assisting Courses

# Criminal Justice Assisting Courses

One of the many purposes of schooling in American society is career preparation or what we call vocational-technical education. In this section on Criminal Justice Assisting, we address a central program in the vocational-technical education program.

We do not address the business law aspect of vocational-technical business education, nor do we address the consumer education aspect of home economics education within the vocational-technical curriculum. Our emphasis is upon Criminal Justice Assisting, a program with three central year-long courses in a sequence, which is located in the Public Service component of Florida's vocational-technical education. The main purpose of this program is to prepare criminal justice system aides for specific careers ranging from parking enforcement officers and police community service aides to fingerprint clerks.

The following pages offer an overview of Criminal Justice Assisting, the content focus and major instructional outcomes for the three year-long courses. In addition, a sample attitude survey is suggested for teachers to modify and use as an instructional springboard and as a very informal pre- and post-instruction experience for students to reflect upon attitude shifts and constants over the course of a year's (or three years') educational activities in Criminal Justice Assisting.

## Part III Table of Contents

A. Curriculum Overview

B. Criminal Justice Assisting 1 Course Outline

C. Criminal Justice Assisting 2 Course Outline

D. Criminal Justice Assisting 3 Course Outline

E. Criminal Justice Assisting Attitude Survey (informal)

## A.

# Criminal Justice Assisting Course Outline
# Florida Department of Education Course #8918000
## Credits: 3.0

I. Major Concepts/content. The purpose of this program is to prepare students for employment as criminal justice aides, parking enforcement officers, police aides (243.362-014), and fingerprint clerks (209.367-026) that do not require certification by the Criminal Justice Standards and Training Commission, Florida Department of Law Enforcement.

The content includes, but is not limited to:

- introduction to the criminal justice system
- police ethics and constitutional law
- patrol procedures
- traffic control procedures
- defensive tactics and physical proficiency skills
- first aid and cardiopulmonary resuscitation
- interpersonal and communication skills
- investigation procedures
- court systems and trial procedures
- correctional systems
- introduction to forensic science
- crime prevention
- property control
- employability skills
- computer skills

Reinforcement of basic skills in English, mathematics, and science appropriate for the job preparatory programs is provided through vocational classroom instruction and applied laboratory procedures or practice.

This program focuses on broad, transferable skills and stresses understanding and demonstration of the following elements of the public service industry:

- planning
- management
- finance
- technical and production skills
- underlying principles of technology
- labor issues
- community issues and health
- safety and environmental issues

Listed below are the courses that comprise this program when offered at the secondary level:

| | |
|---|---|
| 8918010 | Criminal Justice Assisting 1 |
| 8918020 | Criminal Justice Assisting 2 |
| 8918030 | Criminal Justice Assisting 3 |

II. Laboratory Activities. Field and laboratory activities include basic procedures in traffic control, patrol, search and arrest, stop and frisk, mock trial, jail operations, crime prevention, fingerprinting, forensic photography, and crime laboratory examination procedures. To accomplish field and laboratory activities, the coordination of field trips to criminal justice agencies is essential.

III. Special Note: Florida Public Service Association is the appropriate vocational student organization for providing leadership training and reinforcing specific vocational skills. Vocational Student Organizations, when provided, shall be an integral part of the vocational instructional program, and the activities of such organizations are defined as part of the curriculum in accordance with Rule 6A-6.064, FAC.

The cooperative method of instruction may be used for this program. Whenever the cooperative method is offered, the following is required for each student: (1) a training plan, signed by the student, the teacher and the employer which includes instructional objectives and a list of on-the-job and in-school learning experiences; and, (2) a work station which reflects equipment skills, and tasks relevant to the student's career goal. The student must receive compensation for work performed.

The Parking Enforcement Specialist program is provided for in Section 316.640.F.S., and is approved by the Criminal Justice Standards and Training Commission.

If this program is offered for 450 hours or more, in accordance with Rule 6A 10.040, F.A.C., the minimum basic skills grade level required for this program is: Mathematics 6.0, Language 8.0, Reading 9.0. This grade level number corresponds to a grade equivalent score obtained on a state designated basic skills examination.

The typical length of this program for the average achieving student is 450 hours.

The particular outcomes and student performance standards which the handicapped student must master to earn credit must be specified in the student's individual educational plan (IEP). Additional credits may be earned when outcomes and standards are mastered in accordance with the requirements indicated in subsequent IEP's. The job title for which the student is being trained must be designated in the IEP.

This program/course should be reviewed, and a "transfer value" assigned the curriculum content by the appropriate Statewide Course Numbering System discipline committee. This does not preclude institutions from developing specific program or course articulation agreements with each other.

IV. Intended Outcomes. After successfully completing this program, students will be able to:

1. Discuss goals of and career opportunities and requirements in the criminal justice system.
2. Interpret police ethics and constitutional laws in relation to enforcement operations.
3. Describe court systems and trial processes.
4. Describe the correctional system and provide assistance in correctional/jail operation.
5. Utilize personal, interpersonal, and communication skills.
6. Demonstrate employability skills.
7. Describe characteristics of patrol and provide assistance in patrolling.
8. Describe traffic control procedures and provide assistance in traffic control.
9. Describe procedures and techniques for proper defensive tactics.
10. Apply first aid and CPR.
11. Describe crime and accident investigation procedures and provide assistance at scene.
12. Assist in forensic science tasks, such as fingerprinting, crime laboratory examination, and forensic photography.
13. Describe crime prevention programs and assist in developing and implementing them.
14. Explain property control procedures.
15. Demonstrate computer literacy.
16. Demonstrate knowledge of sexually transmitted diseases, including AIDS and blood born pathogens.
17. Demonstrate knowledge of basic math skills.

B.

# Criminal Justice Assisting 1 Course Outline
## Florida Department of Education Course #8918010
## Credit: 1.0

Course Description:

This course is designed to introduce students to the fields of law enforcement, the court system, and the correctional system. The content includes career opportunities in these fields, court system, correctional system, interpersonal and communication skills, and employability skills.

Under the following areas, after successfully completing this course, the student will be able to:

1.0 Discuss Goals of and Career Opportunities in the Criminal Justice System

- 1.01 Define criminal justice system.
- 1.02 Discuss goals of the criminal justice system.
- 1.03 Describe career opportunities in the criminal justice system.

2.0 Interpret Police Ethics and Constitutional Laws in Relation to Law Enforcement Operations

- 2.01 Interpret canons of police ethics.
- 2.02 Define constitutional law and describe how it affects law enforcement operations.
- 2.03 Describe federal law, state (Florida) criminal law, civil law, and local ordinances.

3.0 Describe Court Systems and Trial Processes

- 3.01 Discuss the federal court system and identify different types of courts in federal court system.
- 3.02 Describe the Florida court system.
- 3.03 Describe local court systems in Florida.
- 3.04 Discuss Florida criminal law.
- 3.05 Discuss Florida criminal procedure.
- 3.06 Describe the people involved in the courtroom settings, and the processes of pre-trial, trial and post-trial.
- 3.07 Discuss the juvenile court system in Florida.
- 3.08 Present an oral and written report on criminal cases utilizing computer database and word processing software.
- 3.09 Describe and assist with warrants and summons process.
- 3.10 Notify witnesses and defendants of court schedules.
- 3.11 Demonstrate courtroom demeanor and testify in court.

### 4.0 Describe the Correctional System and Provide Assistance in Correctional/Jail Operations

4.01 Describe the history of corrections.
4.02 Discuss local, state (Florida), and federal correctional systems.
4.03 Describe how a jail officer can help the prisoner during certain period of crisis
4.04 Discuss probation and parole.
4.05 Discuss Florida juvenile corrections system.
4.06 Prepare booking form.
4.07 Receive prisoner property.
4.08 Identify the rights of the prisoner.
4.09 Assist in conducting prisoner, body cavity, and cell searches.
4.10 Classify prisoners.
4.11 Maintain jail, prisoner, and property logs.

### 5.0 Utilize Personal, Interpersonal and Communication Skills

5.01 Use telephone courtesy and relay telephone messages.
5.02 Demonstrate proper use of available communications equipment.
5.03 Follow directions.
5.04 Demonstrate appropriate reactions to stressful situations.
5.05 Prepare written reports.
5.06 Describe techniques for obtaining information.
5.07 Identify sources of information.
5.08 Use the computer as a tool in the special applications associated with the criminal justice system.

### 6.0 Demonstrate Employability Skills

6.01 Conduct a job search.
6.02 Secure information about a job.
6.03 Identify documents that may be required when applying for a job.
6.04 Complete a job application.
6.05 Demonstrate competence in job interview techniques.
6.06 Identify or demonstrate appropriate responses to criticism from employer, supervisor, or other persons.
6.07 Identify acceptable work habits.
6.08 Demonstrate knowledge of how to make job changes appropriately.
6.09 Demonstrate acceptable personal hygiene and professional appearance.

## C.

# Criminal Justice Assisting 2 Course Outline
# Florida Department of Education Course #8918020
# Credit: 1.0

Course Description:

This course is designed to develop competencies in patrol, traffic control, defensive tactics and physical proficiency skills, first aid and cardiopulmonary resuscitation skills.

Under the following areas, after successfully completing this course, the student will be able to:

7.0 Describe Characteristics of Patrol and Provide Assistance in Patrolling

7.01 State main duties and responsibilities of patrol officers.
7.02 Identify different patrol types and zones and the advantages and disadvantages of each patrol type.
7.03 Utilize observation points and sensory perceptions.
7.04 Demonstrate appropriate defensive driving techniques.
7.05 Demonstrate patrol techniques.
7.06 Identify suspicious persons and circumstances.
7.07 Assist in traffic stop.
7.08 Assist in inspecting vehicles and equipment.
7.09 Assist in stop and frisk.
7.10 Assist in arrest and search.
7.11 Describe how to establish rapport with citizens.

8.0 Describe Traffic Control Procedures and Provide Assistance in Traffic Control

8.01 Identify traffic emergencies and take proper action.
8.02 Position police vehicle and personnel.
8.03 Set up barricades and traffic cones.
8.04 Use hand signals, whistle, flashlight, and flares.
8.05 Coordinate with other traffic officers.
8.06 Provide escorts using proper protocol.
8.07 Use public address (bullhorn) system.
8.08 Read parking meters and identify violators.
8.09 Write Florida uniform traffic citations.
8.10 Describe regulatory citation flow, their use and value.
8.11 Identify the most frequently used sections of the uniform traffic code.

9.0 Demonstrate Use of Force Continuum and/or Matrix

9.01 Recognize potential weapons.
9.02 Describe how to defend against knife or sharp instrument.
9.03 Describe how to defend against a firearm.
9.04 Describe proper procedure and techniques for applying counter moves.

9.05 Describe proper procedure and techniques for applying come-along holds.
9.06 Describe proper procedure and techniques for subduing and taking down suspect.
9.07 Describe proper procedure and technique for handcuffing the suspect.
9.08 Describe proper procedure and technique for conducing a wall search and a kneeling search.

10.0 Apply First Aid and CPR

10.01 Display personal hygiene.
10.02 Identify four classes of fire.
10.03 Use fire extinguisher agents.
10.04 Recognize hot power lines.
10.05 Recognize and respond to hazardous materials and situations.
10.06 Recognize life threatening situations.
10.07 Use gas mask and chemical agents.
10.08 Remove unconscious or disabled victim from dangerous situations.
10.09 Apply basic first aid techniques.
10.10 Recognize and report signs of abuse and neglect.
10.11 Apply cardiopulmonary resuscitation (CPR); secure and maintain certification in CPR.
10.12 Apply infection control measures in accordance with Center for Disease Control (CDC) guidelines.
10.13 Describe appropriate procedures for dealing with mentally or physically disturbed persons.

# D.

# Criminal Justice Assisting 3 Course Outline
# Florida Department of Education Course #8918030
# Credit: 1.0

Course Description:

This course is designed to develop competencies in crime and accident investigation procedures, forensic science tasks, crime prevention and property control procedures.

Under the following areas, after successfully completing this course, the student will be able to:

11.0 Describe Crime and Accident Investigation Procedures and Provide Assistance at Scene

11.01 State the purpose and types of investigations.
11.02 Describe the responsibilities of law enforcement officers at the crime and/or accident scene.
11.03 Describe the role of evidence in investigations.
11.04 Describe crime scene investigation procedures.
11.05 Secure and preserve scene.
11.06 Photograph scene and evidence.
11.07 Take measurements.
11.08 Record facts using recording equipment and taking notes.
11.09 Sketch evidence.
11.10 Assist in identifying, preserving, collecting, recording, and storing evidence.
11.11 Describe how to made a casts of physical impressions of evidence.
11.12 Assist in processing scene for fingerprint.
11.13 Describe chain of custody.
11.14 Identify different search methods.

12.0 Assist in Forensic Science Tasks, Such as Fingerprinting, Crime Laboratory Examination and Forensic Photography

12.01 Roll fingerprints.
12.02 Identify focal points.
12.03 Identify fingerprint patterns.
12.04 Lift and record latent prints.
12.05 Describe blood-type identification procedures and assist with serological activities.
12.06 Describe hair and fiber examination procedures and assist with trace evidence activities.
12.07 Describe broken glass examination procedures and assist in broken glass examination.
12.08 Take mug shots and photographs.
12.09 Identify basic photo-laboratory procedures and assist with darkroom activities.

## 13.0 Describe Crime Prevention Programs and Provide Assistance in Developing and Implementing Them

13.01 Identify community crime prevention programs.
13.02 Describe actions that citizens should take to implement a community or school crime prevention program.
13.03 Discuss how to develop and implement a crime prevention program.
13.04 Identify the role of law enforcement agencies in developing and implementing community crime prevention programs. Identify potential crime conditions that can be eliminated by planning the physical environment.
13.05 Describe three stages at which architectural design can help prevent crime.
13.06 State ways in which an actively used neighborhood recreational facility can help prevent crime.
13.07 State features of exterior door design that will prevent crime.
13.08 Conduct security surveys.
13.09 Assist with neighborhood crime watch activities.
13.10 Describe and assist in implementing community crime prevention programs such as Rape Crisis Center, Victim Advocate Program, Bike Safety Program, Traffic Safety Program, Child Safety Program, Financial Institution Security Program, Commercial and Business Security Program, and Sexual Assault Prevention Program.
13.11 Assist in manning Crime Alert Hotline.
13.12 Use crime analysis information.
13.13 Describe "Operation Identification" for residences and businesses.

## 14.0 Explain Property Control Procedures

14.01 Classify, identify, and mark property.
14.02 Match property with reports.
14.03 Describe the storage and control of evidence, property and supplies.
14.04 Operate I'dent equipment.
14.05 Assist with issuance, maintenance and inventory of department equipment and supplies.

## 15.0 Demonstrate Knowledge of Sexually Transmitted Diseases, Including AIDS

15.01 Distinguish between facts and fallacy about the transmission and treatment of diseases caused by blood born pathogens.
15.02 Identify community resources and services available to individuals with diseases caused by blood borne pathogens.
15.03 Identify "at-risk" behaviors which promote the spread of AIDS and the public education necessary to combat the spread of diseases caused by blood borne pathogens.
15.04 Apply infection control techniques designed to prevent the spread of diseases caused by blood borne pathogens to the care of all patients following Centers for Disease Control (CDC) guidelines.
15.05 Demonstrate knowledge of the legal aspects of AIDS, including testing.

16.0 Demonstrate Knowledge of Basic Math Skills

16.01 Draw, read, analyze and report on graphs, charts and tables.
16.02 Measure time, temperature, distance, capacity and mass/weight.
16.03 Make and use measurements in both traditional and metric units.
16.04 Make estimates and approximations and judge the reasonableness of the result.

## E.

## Criminal Justice Assisting Attitude Survey

Instructions: For each section, please indicate your agreement or disagreement with the following statements by responding:

**1 - strongly disagree 2 - disagree 3 - undecided 4 - agree 5 - strongly agree**

### 1.0 THE CRIMINAL JUSTICE SYSTEM

1.1 ____ The criminal justice system is fair and impartial.
1.2 ____ The criminal justice system works effectively.
1.3 ____ The criminal justice system works efficiently.
1.4 ____ All three parts of the criminal justice system -- police, courts and corrections -- should work together to reduce crime.
1.5 ____ The courts, law enforcement and correctional institutions provide good career opportunities.
1.6 ____ Although our criminal justice system is not flawless, it is the best available.
1.7 ____ I feel positively about law enforcement officers in my community.
1.8 ____ The study of criminal justice will help make me a better citizen.

### 2.0 THE GOALS OF THE CRIMINAL JUSTICE SYSTEM

2.1 ____ The rights of an individual are more important than the rights of society.
2.2 ____ I support giving up my privacy to ensure safety and discipline in my community.
2.3 ____ The goal of the criminal justice system is a peaceful, orderly society.
2.4 ____ People my age deserve more privacy and trust in my community.
2.5 ____ I feel safe from violence at this school.
2.6 ____ I feel safe from crime at home.
2.7 ____ Having law enforcement officers (School Resource Officers) on my school campus reduces crime.
2.8 ____ Having metal detectors on campus is effective.
2.9 ____ Going to school is more dangerous nowadays than when my parents were my age.
2.10 ____ Law enforcement is generally effective in catching criminals.

### 3.0 CAREER OPPORTUNITIES IN THE CRIMINAL JUSTICE SYSTEM

3.1 ____ Law enforcement is an honorable profession.
3.2 ____ I understand the role and purpose of the law enforcement officer.
3.3 ____ I would like to work in a field or laboratory that supports society through criminal justice agencies.
3.4 ____ Criminal justice aide, parking enforcement officer, fingerprint clerk or police aide careers sound interesting to me.

## 4.0 ETHICS FOR THE CRIMINAL JUSTICE SYSTEM

4.1 _____ Police should be able to use whatever means necessary to capture a person accused of violating a law.
4.2 _____ Police officers treat everyone with respect and dignity.
4.3 _____ Every person arrested should get a fair and just trial.
4.4 _____ Attorneys are ethical in their dealings with people in the criminal justice system.
4.5 _____ Inmates are treated with respect and fairness by correctional officers.
4.6 _____ Law enforcement officers in my community generally avoid using physical force against people.
4.7 _____ I would know what to do if I were mistreated by a law enforcement officer.
4.8 _____ I personally know someone who has been mistreated by the police.
4.9 _____ Police officers who accept free coffee or half-priced meals are acting unethically.
4.10 _____ Law enforcement officers are generally honest.

## 5.0 THE FIELD OF CRIMINAL LAW

5.1 _____ The Constitution protects every person in the United States from unlawful actions of the police.
5.2 _____ I respect the limitations of a police or corrections officer's powers due to constitutional rights.
5.3 _____ The United States Constitution is highly respected by criminal justice personnel.

## 6.0 THE COURT SYSTEM AND TRIAL PROCESSES

6.1 _____ I know my rights as a young U.S. Citizen.
6.2 _____ A person cannot get justice without a good lawyer.
6.3 _____ Juries are always impartial and fair.
6.4 _____ A juvenile's crime record doesn't really "count" once they become an adult.
6.5 _____ Juveniles should be sentenced like adults in court.
6.6 _____ I support a separate system of criminal justice for juveniles.
6.7 _____ Juveniles are generally treated fairly by the criminal justice system.
6.8 _____ The courts are overloaded and fail to reduce crime.
6.9 _____ Judges are generally impartial.
6.10 _____ Supreme Court decisions are not politically biased.
6.11 _____ The court system is easy to understand.
6.12 _____ Serving on a jury fosters civic pride.
6.13 _____ Observing a criminal trial is interesting.
6.14 _____ Juveniles are held accountable for their actions in this society.

## 7.0 THE CORRECTIONAL SYSTEM

7.1 _____ Juvenile offenders should be able to continue their education while incarcerated.
7.2 _____ Only the worst prisoners are locked in jails.
7.3 _____ The death penalty is an excellent deterrent to prevent people from committing murder.
7.4 _____ Punishment is a deterrent to crime.
7.5 _____ Convicted felons are generally adequately punished.
7.6 _____ Misdemeanor offenders should be punished more seriously.
7.7 _____ The United States needs more crime deterrence programs.
7.8 _____ Prison life is scary.
7.9 _____ Prison life is easier than in the "real world".

## 8.0 HUMAN RELATIONS SKILLS, TOLERANCE AND UNDERSTANDING OF CULTURAL DIFFERENCES AND SELF-DISCIPLINE

8.1 _____ The criminal justice system respects the cultural differences that existin our society.
8.2 _____ Some racial and ethnic groups are treated differently by law enforcement officers in my community.
8.3 _____ Poor people are shown a different degree of respect than others by the criminal justice system.
8.4 _____ Celebrities are treated no differently by the criminal justice system.
8.5 _____ Law enforcement officers in my community generally treat males the same way as females.
8.6 _____ Women perform as well as men in law enforcement careers.
8.7 _____ Discrimination still exists in American society.
8.8 _____ I think the ability to communicate with people is important to maintaining peace.
8.9 _____ Police work is very stressful.

## 9.0 EMPLOYABILITY SKILLS

9.1 _____ I know the skills and attributes that make me a marketable person in the criminal justice field.
9.2 _____ Studying criminal justice in high school will help prepare me for work.
9.3 _____ I can learn the skills to improve the criminal justice system.
9.4 _____ Police officers who are college graduates make better law enforcers.
9.5 _____ It is important to know how to write a resume.
9.6 _____ It is important to know how to prepare for a job interview.
9.7 _____ It is important to know the rights of juveniles in the workplace.

Name (optional): ______________________________

# Part IV

◆

# Exemplary Law Lessons

# Introduction to Exemplary Law Lessons

As evident from the earlier parts of this curriculum guide, law-related education has a vast and diverse content base. Law studies courses and criminal justice assisting programs allow any high school student group to discover high interest and deeply relevant opportunities for learning, linked to personal goals ranging from civic education to career exploration.

The exemplary law lessons in Part IV were selected to provide teachers and school district personnel with concrete examples as to what is possible and, indeed, vital in law study in schools. Some lessons are brief, while others engage students over multiple class periods for in-depth study. Each lesson is applicable to one or more of the themes in the alternative course outlines in Parts II and III above.

Together the exemplary lessons provide learning opportunities in each of the following dimensions of law-related education.

*Basic Legal Concepts*

Authority
Community
Culpability
Equality
Equity
Jurisdiction
Justice
Law
Liberty
Order
Ownership
Responsibility
Rights
Truth

*Legal Careers*

Law-maker
Law Enforcement
Attorney
Judge/Arbiter
Correctional Worker
Law Educator

*Legal System Components*

Rules and Laws
Legal Processes
Authority and Power

*Functions of Law*

Determining Facts
Making Judgments
Resolving Conflicts
Protecting the Common Good
Protecting Personal Liberties

Most of the following lessons contain suggestions for *integrating* law studies and law assisting courses into the main academic curriculum of the school -- English, social studies, science, mathematics and computers.

The Lessons:

- *Big Bad John and the Magna Carta*
- *The Case of the Shipwrecked Sailors*
- *The Case of Suspected Child Abuse*
- *Censorship - Is It With Us Today?*
- *The Clemency Hearing in Florida: A Last Chance*
- *Cop Stop: Can They or Not?*
- *The Crime Game*
- *Drug Testing: Is It Constitutional?*
- *The Eighth Amendment and the Rights of Inmates*
- *Evaluating a School District's Human Dignity Policy*
- *Fingerprinting*
- *Freedom of Expression*
- *Gangs? What are You Talking About?*
- *Gideon v. Wainwright: A Case Study*
- *He Said/She Said: A Search for the Truth*
- *Human Nature and Democracy*
- *An Introduction to Law*
- *Judicial Procedures: Understanding the Adversary Relationship*
- *Justice or Lottery: Does DNA Profiling Violate Basic Constitutional Rights?*
- *Keep Out, It's Mine*
- *Law Enforcement*
- *Life...Outside: Probation, Parole, Community Control*
- *Mathematics and Its Involvement in a D.U.I. Case*
- *Mock Florida Senate Criminal Justice Committee Hearing*
- *Mock Trial: State v. Starr*
- *No Weapons Allowed: A Lesson on Rule-Making*
- *Old Enough? Trying Minors as Adults*
- *Procedural Justice: The Case of a Cultural Defense*
- *Safe-Schools Survey*
- *School Dress Code*
- *Search and Seizure*
- *Solving the Problems at Animal Farm*
- *Strategies for Inquiry: Using the Law Library*
- *Student Government*
- *The Supreme Court of Florida: The State's Court of Last Resort*
- *Understanding and Dealing with School Sexual Harassment*
- *What is a Democracy?*
- *A Writing Assignment on Pre-Sentencing Investigation Reports*
- *Youth Violence: Its Victims and Impact*

NOTE ON EXEMPLARY LAW LESSONS

Most of these lessons have been slightly altered from their original form to fit the format of this document. The end result is a very similar format and organizational style among most of the lessons. Our intention in doing this is not to alter the content, but only modify the appearance, of the lessons included.

Because they are so well-designed, several of the lessons included in this section have been widely distributed and used by teachers in Florida. As they have been retyped and reproduced over the years, the author's name has been lost. We have made several attempts to identify the authors of these lessons; in the cases where we have been unsuccessful, we have printed the lesson with no author's name below the title. We do not take credit for authoring the lessons in question.

You will also notice at the end of many of the lessons a "Curriculum Integration" section. In this section, we have attempted to give suggestions as to possible infusions of the lesson material into other subject areas. **THESE SUGGESTIONS ARE NOT A PART OF THE AUTHOR'S ORIGINAL LESSON, BUT HAVE BEEN ADDED BY THE FLORIDA LAW RELATED EDUCATION ASSOCIATION FOR THE PURPOSE DESCRIBED ABOVE.**

# *Big Bad John and the Magna Carta*

by Robert J. Stahl, Arizona State University

## INTRODUCTION

Designed originally for World History curriculum infusion, this lesson helps students consider the value which they place upon certain rights and freedoms which they have in our democratic system and to understand that these values have emerged over a long period of time.

## OBJECTIVES

As a result of the lesson the students will:

1. Know some of the reasons for and events of the signing of the Magna Carta.
2. Understand some of the provisions of the Magna Carta.
3. Engage in the task of weighing several alternatives in making a decision.
4. Become involved in activities to develop negotiation and compromise skills.
5. Make decisions between more and less desirable alternatives.
6. Know how other students view the rules and freedoms they themselves value.

## TIME REQUIRED

two class periods

## MATERIALS

Handout A: Big Bad John
Handout B: Decision Sheet #1
Handout C: Decision Sheet #2

## VOCABULARY

baron, compromise, levied taxes, Magna Carta, noble, peer(s), tyrant

## PROCEDURES

1. Use Handout A to provide the background at the occasion for decision-making. Divide the students into groups of 10. Review the facts and the context for decision making. Use the world history textbook, if students require additional grounding in the context. Student groups decide on their responses to the three queries in the handout.

2. Use Handout B, Magna Carta Decision Sheet #1, individually before completing the activity above (rank order).

3. Do the group decision-making using Handout C, Decision Sheet #2, to guide your deliberations in the groups and to record your decisions.

4. Have the groups share their Decision Sheet #2 with the entire class and try to work out a unified decision for the entire class (all "Barons").

5. Use the following questions for a teacher-led debriefing on this collective decision-making activity:
    a. According to legend, what famous hero-bandit lived during the time of King John?
    b. What is a baron?
    c. What is meant by the term compromise?
    d. What is the relationship between a king and a baron?

e. What should be the relationship between a king and the people?
f. In this story, who had more power--the King or the barons?
g. According to this story, in what ways did King John not obey the laws?
h. In what ways is a "king" like our "president"?
i. Is it good to have a powerful king rule a country?
j. Should a group of people ever allow a weak king to rule their country?
k. Should people be able to force a king to agree to follow certain rules?
l. If you were King John, would you be upset by the demands of the barons?
m. Suppose King John agreed to follow all nine rules. Suppose further that he later followed none of these rules. If this happened, what would be your feelings toward him?
n. If you were a peasant in England, would you be happy with what the barons were trying to do to your king?
o. If the king promised to enforce all the laws equally and fairly, would you be happy?
p. Suppose the king promised to enforce all the laws equally and fairly. Suppose further that the bandit-robber, Robin Hood, was captured. If a jury found Robin guilty and sentenced him to death for his crimes, would King John be a "good" king by carrying out the sentence?
q. Suppose Robin Hood were captured and, despite all the evidence, was found not guilty. If this occurred, in what ways would this jury be disobeying the law?

## CULMINATING ACTIVITY

The Barons were trying to limit the power of the King. Our constitution tries to accomplish the same end (albeit more broadly across the citizenry) by limiting the power of government. Students should examine their copies of the United States constitution to see how and where the principle of limited government is manifest in the text. Compare the ideas in the constitution to the Barons' understanding with King John in the Magna Carta.

## CURRICULUM INTEGRATION

Students might examine the Student Government constitution to see how and where power is limited -- limited by whom and for whom? Any comparisons with the Magna Carta?

Interview teachers about their collective bargaining contract with the school board. How do they arrive at their bargaining position? Like the Barons? Do they rank order? How are negotiations conducted with school officials?

*Reprinted with permission from the author and Zephyr Press of Tucson, Arizona. This lesson also appears in Dr. Stahl's book, Doorways to Thinking: Decision Making Episodes for the Study of History and the Humanities. Dr. Stahl formerly taught in Lake County, Florida, and at the P.C. Yonge School at the University of Florida in Gainesville. Edited to fit this format.*

## HANDOUT A

### Big Bad John

The year is 1215. You are a noble (baron) living in England during the rule of King John. King John has acted like a tyrant--a king who often does not obey the laws. He has punished people without allowing them a trial. He has collected taxes from the poor--often selling their property to get the tax money. He has levied heavy taxes on the barons that he dislikes and few taxes on his friends. He has taxed people as he wanted. He has even refused to ask his counsel of barons, the Great Counsel, for permission to raise taxes. In every way, King John has acted above the law in order to get what he could not get using the laws properly. Also, he has selected people like the Sheriff of Nottingham to carry out his orders. Almost everyone in England is unhappy with King John.

As a baron, you too are upset because King John has not obeyed the law. Other barons agree with you. Most of the barons have become sick and tired of the way the King has acted. You decide to meet with the barons in order to write up a set of rules for the King to follow. Your group decides to make the King sign the rules by forcing him to agree to obey and enforce the list of rules.

The main terms you decide to include in this list of rules are:

THE MAGNA CARTA (GREAT CHARTER)

The nine rules you have agreed upon as a group are:

1. The King may not collect any taxes without the permission of the Great Counsel of Barons.

2. The King cannot invent any new or special taxes and begin collecting them without the permission of the Great counsel.

3. The King cannot take anyone's property without paying a fair price to the owner for it.

4. The King cannot take bribes (payments from people so they can get what they want from the King or get special favors from the King).

5. The King cannot put people in prison or jail unless they have had a trial by jury

(peers) and been sentenced by the court.

6. The King has to obey the laws just like everyone else in England.

7. The King cannot force people to go to war in another country when they do not want to go.

8. The King must stop interfering with the Church by telling the clergymen, priests, and bishops what to do and say.

9. The King must stop granting special favors and privileges to barons who like him while treating barons who do not like him unfairly.

After some hard work and debate, the group of barons agree to these rules. You decide to call this set of rules the "Great Charter" or the Latin title, the Magna Carta.

As a group, you are able to surround King John in a field near Runnymede. He refuses to sign the agreement. He says he will not be forced to obey the law. He says a king can break the law when and if he wants. King John threatens to have all the barons arrested and their leaders beheaded.

After several days, King John says he will agree to sign the Charter, but that he will not follow all the rules. He asks the barons to take some of the rules out. Meanwhile, the King has received word that his army is approaching. If the army arrives, then you and the other barons will either have to fight or surrender.

Suppose King John offers you a compromise. He says he will agree to three of the rules immediately. He will think about three other rules which he might accept later. But, three of the nine rules he will never follow under any circumstances. As barons, you can agree to his wishes or continue to demand that all nine rules be accepted. To wait any longer you and your fellow barons would only run the risk of fighting the King's army and losing all nine rules included in the Great Charter.

You persuade your fellow barons to agree to the King's compromise plan. Also, you agree that if his army does not show up, you will continue to demand he agree to all nine rules. To follow the King's plan, your group agrees to select:

1. The three (3) rules you believe the King must follow. These three rules you believe are the most important for you and for all of England. These three rules the King must follow and enforce fairly.

2. The three (3) rules you believe are not that important and which you will give up in order to make sure the first three rules are followed. These rules are important but are not that important. These will be the rules the King said he would not ever agree to or would ever enforce.

3. The three (3) remaining rules are ones the King has agreed to consider at a later time. He may or may not ever agree to these rules.

## HANDOUT B

### Decision Sheet No. 1

Before the group decides on its first three and bottom three rules, the barons agree that each baron should first rank-order the nine rules. After this is done, then they could begin discussing the rules and make their final choice.

DIRECTIONS
Using the list below, rank-order the nine rules. (You do this by assigning a "1" in the space next to the rule you want most to keep, a "2" next to the second most important rule, and so on until your least important rule has a "9" next to it.)

Use Decision Sheet No. 2 to complete the assignment.

Remember that in making your decisions and in selecting the final three rules that the King will agree to follow, the people of England will either be helped or hurt by what you decide. However, since you are a baron you may decide to consider helping the position of the barons before you consider the position of the common people.

### THE MAGNA CARTA (GREAT CHARTER)

The nine rules you have agreed upon as a group are:

____ 1. The King may not collect any taxes without the permission of the Great Counsel of Barons.

____ 2. The King cannot invent any new or special taxes and begin collecting them without the permission of the Great counsel.

____ 3. The King cannot take anyone's property without paying a fair price to the owner for it.

____ 4. The King cannot take bribes (payments from people so they can get what they want from the King or get special favors from the King).

____ 5. The King cannot put people in prison or jail unless they have had a trial by jury (peers) and been sentenced by the court.

____ 6. The King has to obey the laws just like everyone else in England.

____ 7. The King cannot force people to go to war in another country when they do not want to go.

____ 8. The King must stop interfering with the Church by telling the clergymen, priests, and bishops what to do and say.

____ 9. The King must stop granting special favors and privileges to barons who like him while treating barons who do not like him unfairly.

## HANDOUT C

## DECISION SHEET NO. 2

| The three (3) most important rules are: | If these rules are followed by the King, then these things will be gained: | If these rules are rejected, then these things will be lost: |
|---|---|---|
| 1.__________________<br>__________________<br>__________________ | a.<br>b. | a.<br>b. |
| 2.__________________<br>__________________<br>__________________ | a.<br>b. | a.<br>b. |
| 3.__________________<br>__________________<br>__________________ | a.<br>b. | a.<br>b. |

1. The major theme or idea these three (3) rules have in common is:

2. In justifying our decision to the people of England, the best reason we could give for our selection of these three rules is:

# *The Case of the Shipwrecked Sailors*

## INTRODUCTION

Criminal actions resulting in the taking of a human life are of high-interest in real life, in fiction, and in the law studies classroom. This lesson uses such a high-interest case to engage students in the study of homicide, manslaughter, and murder. As students reason together, they do a case analysis and refine a statement of law.

## OBJECTIVES

As a result of this lesson students will be able to:

1. Analyze a case in order to explore the relationships between law and morals.
2. Discuss the historical, moral and religious foundations of prohibitions against killing.

## TIME REQUIRED

two class periods

## MATERIALS

Chalkboard, chalk
Handout A: The Case of the Shipwrecked Sailors
Handout B: Crime and Punishment

## PROCEDURES

Note: For the following lesson a variation of a method of instruction called the case study method will be used. This procedure is similar to the one used by reading teachers to increase comprehension skills. By using this method, students learn to analyze problem situations, thereby increasing their critical thinking and decision making skills. Below are the steps to follow when performing a case study:

1. Facts - a review of the key facts in the case.

2. Issues - a discussion of the issues or problems presented by the case. This should be posted in the form of a question and should include not only legal issues, but also those relating to public policy, ethics and practical reality.

3. Arguments - a discussion of the arguments for and against each point of view.

4. Decision - this is the answer to the issue(s) posed by the case.

A. Distribute "The Case of the Shipwrecked Sailors" (Handout A) and read aloud:

### THE CASE OF THE SHIPWRECKED SAILORS

The ship went down so suddenly that there was no time to send out an S.O.S. As far as the three sailors knew, they were the only survivors. In the raft they had no food or water, and they had no fishing gear or other equipment which they might use to get food from the ocean.

After recovering from the shock of the shipwreck, the three sailors began to discuss their situation. Dudley, who had been the navigator of the ship, figured that they were at least 1,000 miles from land and that the storm had blown them far from where any ships would normally pass. Stephens, who had been the ship's doctor, indicated that without food they could not live longer than thirty days. The only nourishment they could be assured of was from any rain that might fall from time to time. He noted, however, that if one of the three died before the others, the other two could live for awhile longer by eating the body of the third.

On the twenty-fifth day, the third sailor, Brooks, who by this time was extremely weak, suggested that the three of them draw lots and that the loser be killed and eaten by the other two. Both Dudley and Stephens agreed. The next day lots were drawn and Brooks lost. At this point, Brooks objected and refused to consent. Dudley and Stephens decided that Brooks would die soon anyway, so they might as well get it over with. After thus agreeing, they killed and ate Brooks.

Five days later, Dudley and Stephens were rescued by a passing ship and brought to port. While in the hospital recovering from their ordeal, they told a nurse what happened at sea. The sailors were then placed on trial for murder.

The state in which they were tried had the following law:

> *Any person who deliberately takes the life of another is guilty of murder.*

B. Ask students to discuss the facts of the case and list them on the blackboard. Students should be asked the following questions to help clarify the key facts.

   1. Who are the people involved in this case?
   2. What happened in this case?
   3. What facts are important?

C. Ask students to consider the issues of the case and list them on the board. Use the following questions to help clarify the issues.

   1. Do you think Dudley and Stephens should be tried for murder?

      Students may argue that Dudley and Stephens should be tried for murder since they willfully took the life of another human being. Those who disagree with this may argue that given the circumstances, their actions did not constitute a serious crime. Rather, they should be charged with a less serious offense such as manslaughter or not charged at all.

   2. What conflicting values are at stake in this case?

      Values include the sanctity of human life and the impropriety of cannibalism under any circumstances. An opposing value is the need to survive by any means necessary.

   3. Is there ever a time when taking another person's life is justified?

      Possibilities include: killing done in self-defense, killing an enemy soldier in wartime, the killing of a condemned criminal by an executioner, or the killing by a police officer of a person who is committing a serious crime and who poses a threat of death or serious harm.

   4. What purposes would be served by the conviction of Dudley and Stephens?

      One reason for punishing them is retribution and accountability for what many consider a heinous act even under these circumstances. Or one could argue that punishing them would not really serve as a deterrent because the situation was so unique. I could also be argued that there is not a strong argument for rehabilitation since Dudley and Stephens would probably never commit such a crime again.

Note: Some of the issues which can be discussed include:

* The historical, moral, and religious roots of prohibitions against killing;
* The effect of the agreement; (Did the sailors make a legally enforcable contract?)
* The issue of whether the law should be flexible or uniformly enforced against all who break it;
* The relationship of law to society. Given their unique circumstances, did they make their own laws? Are certain laws (e.g., against murder) ever overridden by man-made laws?

D. Define the legal issue and write it on the board. The legal issue is whether Dudley and Stevens committed murder when they took the life of another in order to save their own lives.

E. Divide the class into groups of 4-5. Select 1-3 judges. Have the students take on the roles of prosecutor, defense attorney and judge. Each attorney should argue his/her case before the judge. State the reasons why or why not the sailors are guilty or innocent.

F. The judge is free to ask questions at any point. The judge should rule on whether the men violated the state law.

G. Distribute Handout 2 - "Crime and Punishment" and read aloud. Explain to the students that our current law attaches different penalties (punishments) for similar acts based on these variables:

1. The facts of the case;
2. The situation (circumstances); and
3. The individual's state of mind at the time the crime was committed.

H. Now ask the students whether they still believe the defendants are guilty of murder or some lesser offense. What penalties would they impose?

Note: This problem is based on the actual case of *Regina vs. Dudley and Stephens* (1884). The English court found both men guilty of murder and sentenced them to death. The court said, "We are often forced to set up standards we cannot reach ourselves, and to lay down rules which we could not ourselves satisfy. But a man has no right to declare temptation as an excuse nor allow compassion for the criminal to change or weaken the legal definition of the crime." What did the court mean by this? (Soon after the verdict, Queen Victoria commuted the sentence to six months imprisonment.)

## CURRICULUM INTEGRATION

In the *Regina vs. Dudley and Stephens* (1884) case the Queen commuted the sailors' sentence to six months imprisonment. Why might the Queen (with the executive powers to commute sentences and pardon criminals) do so in this case? Surely the judge and jury had the law and the facts in rendering their judgement and sentence. Why might the Queen override them?

Talk to teachers in other subjects (e.g., English, science, math) about the nature of judgment in their fields. do inquirers observe, collect facts, and make judgments using those facts? How might someone go about overriding the judgments of others in those fields of knowledge?

History, literature, and science teachers might suggest parallel stories in our past, our literature, or the natural world.

*This lesson reprinted with permission from the National Institute for Citizen Education in the Law (NICEL), and has appeared in their student text Street Law: A Course in Practical Law by Lee P. Arbetman, M.Ed., J.D., Edward McMahon, M.Ed., J.D., and Edward O'Brien, J. D., West Publishing Company. Edited to fit this format.*

## HANDOUT A

### The Case of the Shipwrecked Sailors

The ship went down so suddenly that there was no time to send out an S.O.S. As far as the three sailors knew, they were the only survivors. In the raft they had no food or water, and they had no fishing gear or other equipment which they might use to get food from the ocean.

After recovering from the shock of the shipwreck, the three sailors began to discuss their situation. Dudley, who had been the navigator of the ship, figured that they were at least 1,000 miles from land and that the storm had blown them far from where any ships would normally pass. Stephens, who had been the ship's doctor, indicated that without food they could not live longer than thirty days. The only nourishment they could be assured of was from any rain that might fall from time to time. He noted, however, that if one of the three died before the others, the other two could live for awhile longer by eating the body of the third.

On the twenty-fifth day, the third sailor, Brooks, who by this time was extremely weak, suggested that the three of them draw lots and that the loser be killed and eaten by the other two. Both Dudley and Stephens agreed. The next day lots were drawn and Brooks lost. At this point, Brooks objected and refused to consent. Dudley and Stephens decided that Brooks would die soon anyway, so they might as well get it over with. After thus agreeing, they killed and ate Brooks.

Five days later, Dudley and Stephens were rescued by a passing ship and brought to port. While in the hospital recovering from their ordeal, they told a nurse what happened at sea. The sailors were then placed on trial for murder.

The state in which they were tried had the following law:

> *Any person who deliberately takes the life of another is guilty of murder.*

# HANDOUT B

## Crime and Punishment

1st DEGREE MURDER

Intentionally, wilfully, deliberately decides to kill. There is malice (intent to kill) with premeditation.

PENALTY: Life imprisonment or death.

2ND DEGREE MURDER

Kill someone deliberately and with malice.

PENALTY: Life imprisonment.

VOLUNTARY MANSLAUGHTER

Murder committed in the heat of passion and in response to adequate provocation by the victim.

PENALTY: Fifteen years imprisonment.

INVOLUNTARY MANSLAUGHTER

Murder committed without malice but person's conduct is reckless and involves extreme danger of death or serious bodily harm.

PENALTY: Five years imprisonment.

NEGLIGENT HOMICIDE

Kill someone while driving recklessly or too fast (including drunk driving).

PENALTY: One year imprisonment.

# *The Case of Suspected Child Abuse*

by Catherine C. Goble, Tyhee Elementary School, Pocatello, IN

INTRODUCTION
This activity involves a situation in which two youths become friends. One of the youths appears to be a battered child. The class discusses various avenues that the youth can go through to get help for his friend. This activity includes a writing activity.

OBJECTIVES
The goals of this lesson are to:
1. Reduce students' victimization through discussion of what constitutes child abuse.
2. Build students' ability to take responsible action on behalf of themselves or their friends.

MATERIALS
Handout A: "When You Suspect a Child is Being Abused"

TIME REQUIRED
one class period

PROCEDURES
1. Read this story to the class.

> David and Scott live in a middle class neighborhood in a small town. David's house is across from Scott's. They started playing together sometimes, when their other friends were not around. They weren't in the same grade at school. Scott was in the 4th grade and David in 5th.
>
> Scott began noticing things about David's behavior that puzzled him. David didn't invite Scott over to play at his house very often. He didn't ever ask him to stay all night. He often acted withdrawn and fearful when his father was home. When summer vacation arrived, David was always in long pants, not shorts or swimming trunks like the other kids.
>
> One day several friends decided to play in the water at one of the homes. David joined the other kids enthusiastically. Scott immediately noticed various bruises and welts on David's legs and arms. Scott asked David how he got them, and David hesitantly answered that he had fallen on his bike. Scott dropped the matter but felt very strange about David after that.

2. Explain that David, it appears, is a victim of child abuse and that Scott has a decision to make as to how to help his friend. Child abuse is a crime and should be reported to the state's Child Protection Services (See attached information sheet). Explain what constitutes physical abuse. Explain to the students how it is a person's responsibility to report such abuse. This responsibility is a legal one for adults.

3. Ask the students to discuss the various ways Scott might go about helping David (how he could get help for David- what avenues he could go through).

4. Ask the students to discuss the following solutions:

a) Scott tells his parents about David. His parents are concerned but don't want to get involved.

b) Scott forgets about David's problem and tells himself it is not any of his business.

c) Scott calls his teacher at home and asks her what to do. His teacher contacts David's teacher, and she makes a referral to Children's Services to investigate.

d) Scott calls his minister at church to ask her opinion. She questions Scott and Scott's parents and makes a referral to Child Protection Services.

e) Use one of the students' ideas here that they had suggested that it is different from any of the above.

## EVALUATION

Have the students write about how they would deal with this situation.

## CURRICULUM INTEGRATION

For English class, do a word study in an unabridged dictionary for **abuse**, **exploitation**, and **neglect**.

Students might write additional case studies after interviewing law enforcement officers and/or child protection team members. These cases would be used in ways similar to the David-Scott narrative.

Identify various child protection agencies and services through the Internet. Locate the specific laws governing a person's responsibility to report child abuse.

*This lesson distributed through the Warren E. Burger National Repository for Educational Materials on Citizenship and the Constitution Center for Research and Development in Law-Related Education. 1-800-437-1054. Lesson Number: 89078/10178A.*

## HANDOUT A

### When You Suspect a Child Is Being Abused

1. "Don't mind your own business." The National Committee for the Prevention of Child Abuse says that agencies alone, no matter how much money they are given, cannot curb abuse and apprehend abusers. The whole community has to care enough to get involved.

2. If a child on the street is crying wildly or exhibiting signs of terror while being handled forcibly by an adult, ask if there is anything you can do. If you encounter suspicious hostility or if the situation does not seem "right", get a police officer.

3. If you suspect a neighbor is being stressed as a parent, make a polite inquiry coupled with a specific offer of help, such as, "Please pardon me if I'm being intrusive, but is there anyone I can call? Can I take your child for a few hours today to give you a break?"

4. Know the signs of abuse:

    - The child seems unduly afraid of his/her parents, generally fearful, cries often.

    - The child shows evidence of repeated skin or other injuries, which are often inappropriately treated (i.e., a large bandage covering a bruise that should get air).

    - The child seems undernourished, ill-clothed, or dirty.

    - The child is described as "different" or "bad" by the parents and does indeed seem "different" in physical or emotional makeup.

    - The child is either notably destructive and aggressive or passive and withdrawn.

    - The child seems to be the "parent" to his/her parents.

5. If you notice these signs in a child in your child's school or day-care center, speak to the teacher or the director. These people are required by law to report suspected abuse to children's protective services.

6. If you suspect abuse is occurring in your neighborhood, call your local

children's protective services, or dial the emergency operator and report the situation. Keep calling until someone comes.

7. If a parent you know is having trouble coping and fears losing control with his/her child, advise the person to call the Parents Anonymous Hotline (1-800-421-0353) for confidential phone support and referral to a local chapter.

*Adapted from Dr. Vincent Fontana's book, "Somewhere a Child Is Crying."*

# *Censorship -- Is It With Us Today?*

by John Rahner Bohannon, Vermont Academy, Saxtons River, VT

## INTRODUCTION

This lesson examines some relatively current cases involving attempted or actual censorship and examines the societal values supposedly at risk in these cases through brainstorming and structured discussion. It should follow a class examining the meaning and purpose of censorship.

## OBJECTIVES

The goals of this lesson are to:

1. Examine some current examples of censorship to show how they are related to social and political mores.
2. Expose the students to the continuing controversy over the justifications and needs for censorship.
3. Involve the students in imagining circumstances under which groups may feel the need for some limit on free expression.

## TIME REQUIRED

two class periods

## MATERIALS

Handout A
Handout B

## PROCEDURES

1. Review meaning of censorship. Why it is perhaps unconstitutional? Why do some people feel the need to limit free expression? Under what circumstances should free expression be limited (for example, specific threats to other constitutional rights)?
2. Ask students for examples of why they think someone might want to censor a book or film, in general (for example, to protect morals or national security).
3. Discuss *Hazelwood School District v. Kuhlmeier* (1988) as a possible example of censorship. Provide the students with an overview of the case (Handout A) but not the decision of the court.
4. Divide the class into small groups. Ask each group to decide if this was an example of censorship. If it was, decide what other values of the society (school) were viewed as threatened by the principal and comment on whether that position seems valid.
5. Use Handout B to review the issues and the Court's reasoning.
6. After this discussion, ask the students to imagine if they could see any situations in our society in which censorship would seem appropriate. Focus on the apparent threat to other values of the society and whether this threat is real or not.
7. Conclude by emphasizing the prior restraint nature of censorship and the potentially dangerous power the authority to censor puts in the hands of the censor.

## EVALUATION

Students should define censorship and give three examples, telling why each example is an instance of censorship.

Students should write at least a paragraph agreeing or disagreeing with the following assertion: "Restricting expression is not always undesirable. Some ideas and content should be kept from certain audiences at certain times."

TIPS FROM THE TEACHER

a. A summary of the Hazelwood case can be given to the students as homework the night before.

b. It might be appropriate to ask a newspaper editor, judge, etc., come visit the class and discuss personal experiences of the need for restraint in freedom of expression and the dangers of prior restraint by the government.

CURRICULUM INTEGRATION

a. Interviewing: Student teams might interview teachers of science, English, art, music and mathematics to ask about censorship in their fields, yesterday and today. What are the famous cases of censorship or silencing of ideas in these academic fields? Are there recent instances of censorship in science, art, music, mathematics and English? What role, if any, did law play in these censorship cases? Teams should report findings to the class.

b. Ask the journalism teacher to visit your class to discuss guidelines which are used in your school regarding the content of the school newspaper (or yearbook). Who wrote the guidelines? What ramifications are there if these guidelines are not adhered to? Who had to approve them (if anyone)? Is it necessary to restrict content andare such restrictions lawful and/or reasonable? Why? Why not?

c. Computer teachers can help students use the Internet to investigate what books are banned in school systems, both in Florida and around the nation. Have particular works been accepted at some time in history? Also, instead of distributing Handout B, have the students locate the Court's decision on the Internet.

d. Consider showing the following videos:
"The Bill of Rights in Action", American Bar Association.
"Dangerous Songs: Censors, Rock & The First Amendment", The New York Times.

*This lesson distributed through the Warren E. Burger National Repository for Educational Materials on Citizenship and the Constitution Center for Research and Development in Law-Related Education. 1-800-437-1054. Lesson Number: 70867A/901703.*

## HANDOUT A

### *Hazelwood School District v. Kuhlmeier,* 108 S.Ct. 562 (1988)

FACTS
Cathy Kuhlmeier and two other students of Hazelwood East High School who were staff members of *Spectrum*, the school newspaper, contended that school officials violated their First Amendment rights by deleting two pages from the May 13, 1983 issue. Written and edited by the Journalism II class, *Spectrum* was published every three weeks or so during the school year and was distributed to students, school personnel, and members of the community. The Board of Education allocated funds for the publication, supplemented by sales income.

The practice was for the teacher to submit page proofs to the principal for approval prior to publication. When the teacher, Mr. Emerson, delivered the proofs to the principal on May 10, the principal objected to two articles: one describing three anonymous Hazelwood students' experiences with pregnancy, and the other discussing the impact of divorce on students at the school. These two pages also included articles on teenage pregnancy (in general), teenage marriage, runaways, and juvenile delinquents, with which the principal claimed he had no objections.

The Missouri District Court ruled that the students' rights had not been violated. The Court of Appeals reversed, holding that the newspaper was a "public forum", intended as a conduit for student viewpoint, and thus school officials could not censor its contents except when necessary to avoid "material and substantial" interference with school work or discipline and that such a necessity did not exist in this situation.

ISSUES
I. Do educators violate students' First Amendment rights by exercising editorial control over student speech in school-sponsored publications? a. Can the school newspaper, *Spectrum*, be characterized as a forum for public expression? b. Did the principal act reasonably in requiring the deletion of two pages from the May 1988 issue of *Spectrum*?

## HANDOUT B

### The Court's Holdings

I. As long as the educators' actions are reasonably related to legitimate pedagogical concerns, they do not violate the First Amendment by exercising editorial control over school-sponsored publications.

a. No, *Spectrum* is not a forum for public expression.

b. Yes, the principal acted reasonably in this situation.

REASONING
I. School officials need not tolerate speech which is inconsistent with the school's basic educational mission. The Court distinguished this case from the Tinker decision because the Tinker case involved a student's personal expression. (School officials could not punish students for wearing arm bands in protest of the Vietnam War: “Students do not shed their constitutional rights at the schoolhouse gate.”) This was, instead, a school newspaper, and as such could reasonably be perceived to bear the "imprimatur" of the school.

a. The publication of *Spectrum* was a part of the curriculum. Specifically, it was in the curriculum guide as a part of the Journalism course, it was taught during school hours by a faculty member, the students received grades and academic credit, the faculty advisor exercised control over the publication, and the principal had to review it. The school's policies did not reflect an intent to expand the students' rights by converting a curricular newspaper into a public forum.

b. The principal's fears were reasonable; he was concerned that the protection of students' identities could not be assured, that the privacy interests of boyfriends and parents were not adequately protected, and that parents mentioned in the divorce article were not given an opportunity to defend themselves. The Court reasoned that the urgency of the press deadline justified the deletion of the entire two pages, including items which were not controversial. The Court also exercised judicial restraint, declining to step into the shoes of the school administrators and thereby undermining their authority.

DISSENTING OPINIONS (Justices Brennan, Marshall, and Blackmun):
I. Administrators violated the First Amendment rights of the student staff by deleting two pages of one edition merely because the administrators objected to the contents of two articles. There is no evidence that the principal could have reasonably forecast "material disruption" of class work or give rise to "substantial disorder" (the Tinker standards) from the release of the articles. In addition, the principal went too far; he could have simply deleted the objectionable articles instead of the two pages in their entirety. There was no evidence that the readers would consider the articles an endorsement of the sexual norms of the students interviewed. Nor could the school officials justify the deletion on the basis that the articles were an invasion of privacy; since the students consented to the publication of their information, there was no potential tort liability.

a. *Spectrum* is a public forum for the expression of student opinion: students determined content and wrote the stories, it was distributed to the public as well as to the school population, there was a policy statement which defined it as a "student newspaper", and the school board policy supported the students' right to freedom of expression.

b. In this case, the censorship served no legitimate pedagogical purpose.

# *The Clemency Hearing in Florida: A Last Chance*

by Cynthia Brendle, Zephyrhills High School, Zephyrhills, FL

All information on the clemency process excerpted from the
"Rules of Executive Clemency", published by the State of Florida.

## INTRODUCTION

Clemency is an act of mercy proceeding from the power entrusted to the executive branch to execute the laws of this state, which exempts the individual upon whom it is bestowed from all or any part of the punishment that the law imposes for a crime committed. In Florida, the Governor and Cabinet sit as the Executive Clemency Board.

## OBJECTIVES

As a result of this lesson, students will be able to:

1. Define **clemency**; distinguish from **pardon, parole, and amnesty**.
2. Explain the **clemency process.**
3. Conduct a **mock clemency hearing.**

## TIME REQUIRED

two class periods

## MATERIALS

Handout A: Categories of Clemency
Handout B: Clemency Background Information
Handout C: Clemency Hearing Procedure
Handout D: Mock Clemency Hearing Script

## PROCEDURES

1. Pose the following question: "What is clemency?". Have students brainstorm their answers while someone writes them on the board or chart paper; keep a copy of the answers. Use a dictionary to distinguish **clemency** from **amnesty**, **pardon** and **parole**.

2. Give students Handout B: "Clemency Background Information". Discuss. Why do we have clemency? Do we need it? Why? Why not? What is the *process* of seeking clemency?

3. Give students Handout A: "Categories of Clemency". Discuss.

4. Give Students Handout C: "Clemency Hearing Procedure". Discuss.

5. Give students the "Mock Clemency Hearing Script". Assign roles. Give the students a few minutes to become familiar with their role and to ask any questions as they might have.

Roles in the Mock Clemency Hearing:

a. Governor
(b - g = Cabinet Members)
b. Attorney General
c. Commissioner of Education
d. Secretary of State
e. Secretary of Agriculture
f. Commissioner of Insurance
g. Comptroller
h. Coordinator for the Office of Executive Clemency
i. Ms. Jefferson - applicant
j. Mr. Ham - attorney
k. Mr. Turner - applicant
l. Mr. Lake - applicant
m. Mr. Edward - applicant
n. Mr. Hodges - parole commissioner
o. Ms. Martin - victim
p. Ms. Buchanan - sister of applicant
q. Mr. Smith - attorney
r. Mr. Doyle - attorney
s. Mr. Monroe - attorney
t. Mr. Gonzales - applicant
u. Ms. Crews - applicant

6. Conduct the Mock Clemency Hearing.

7. Discuss the hearing. What did the students learn? What were the similarities of the cases? Differences? Do you think that this process is fair? Effective? Explain.

## EVALUATION

Student performance on this activity, the reading and the discussion/debriefing, should provide ample opportunities for teachers and students to get feedback on student learning.

## CURRICULUM INTEGRATION

Write a letter to the Governor as the leader of the Executive Clemency Board, Governor's Office, The Capitol, Tallahassee, FL 32399, on some question which emerges from the classroom discussion of this lesson.

Write a script for an imaginary convicted felon seeking the restoration of her civil rights following the end of her sentence.

Write a draft constitution amendment for the Florida Constitution changing the powers, duties, or membership of the Executive Clemency Board with the reasons for the proposed changes.

Write a paragraph telling why it is called the Executive Clemency Board, not the Executive *Mercy* Board, the Executive *Compassion* Board, or even the Executive *Leniency* Board.

## HANDOUT A

### Categories of Clemency

1. **Full Pardon** unconditionally releases a person from punishment and forgives guilt. It entitles an applicant to all of the rights of citizenship enjoyed by the person before his or her conviction, including the right to own, possess or use firearms.
2. **Pardon Without Firearm Authority** releases a person from punishment and forgives guilt. It entitles an applicant to all of the rights of citizenship enjoyed by the person before his or her conviction, except the specific authority to own, possess or use firearms.
3. **Commutation of Sentence** may adjust an applicant's penalty to one less severe, but does not restore any civil rights and it does not restore the authority to own, possess or use firearms.
4. **Remission of Fines and Forfeitures** suspends, reduces, or removes such fines or forfeitures.
5. **Specific Authority to Own, Possess or Use Firearms** restores to an applicant the right to own, possess, or use firearms which were lost as a result of a felony conviction(s).
6. **Restoration of Civil Liberties** restores an applicant all of the rights of citizenship in the State of Florida enjoyed before the felony conviction, except the specific authority to use firearms.
7. **Restoration of Alien Status Under Florida Law** restores to an applicant who is not a citizen of the United States such rights enjoyed by him or her, under the authority of the State of Florida, which were lost as a result of a conviction of any crime that is a felony or would be a felony under Florida Law, except the specific authority to own, possess or use firearms. However, a restoration of these rights shall not affect the immigration status of the applicant (ie., a certificate evidencing Restoration of Alien Status Under Florida Law shall not be a ground for relief from removal proceedings initiated by the United States Immigration and Naturalization Service.)

### CONDITIONAL CLEMENCY

All of the proceeding forms of clemency may be granted subject to various conditions. If the conditions of clemency are violated or breached, such clemency may be revoked by the Clemency Board, returning the applicant to his or her status prior to receiving the conditional clemency.

# HANDOUT B

## Clemency Background Information

Executive Clemency is a power vested in the Governor by the Florida Constitution of 1968, Article IV, Section (8)a. Clemency is an act of mercy proceeding from the power entrusted to the executive branch to execute the laws of this state, which exempts the individual upon whom it is bestowed from all or any part of the punishment that the law imposes for a crime committed.

The Governor and members of the Cabinet collectively are the Clemency Board. The Office of Executive Clemency was created to process matters of executive clemency requiring the approval of the Governor and at least three members of the Cabinet.

The Governor, with the approval of at least three members of the Cabinet, shall appoint a Coordinator who shall hire all assistants. The Coordinator and assistants shall comprise the Office of Executive Clemency. The Coordinator shall keep a record of all proceedings and shall be the custodian of all records.

The Clemency Board meets in March, June, September, and December of each year, or at such times as set by the Clemency Board. The Governor can call a special meeting at any time and for any reason.

The Clemency Board will neither grant nor revoke parole or probation; such matters will not be entertained by the Clemency Board.

The Governor has the unfettered discretion to deny clemency at any time and for any reason. The Governor, with the approval of at least three members of the Cabinet, has the unfettered discretion to grant, at any time and for any reason, the accepted forms of clemency.

The Parole Commission conducts an in-depth investigation for each clemency case that reaches the agenda. It submits a report to the Clemency Board with its recommendations, whether the application should be granted or denied. The Clemency Board then reviews the reports and recommendations. According to Florida's Constitution, the Governor and at least three cabinet members must favorably recommend a case for a clemency to be granted. Applications for restoration of civil rights and residence rights that meet the criteria are routinely granted; any that receive an objection from any Board member will be placed on the agenda.

An applicant is not required to attend his or her clemency hearing; the failure to attend will not weigh against the applicant. The applicant, or any other person intending to speak on behalf of the applicant, shall not be permitted to make an oral presentation to the Clemency Board unless the applicant, or any other such person, first advises the Office of Clemency at least 10 days prior to the scheduled meeting that he or she intends to speak.

Any person making an oral presentation to the Clemency board will be allowed no more than five minutes. All persons making an oral presentation *in favor* of an applicant shall be allowed cumulatively no more than 10 minutes. All persons making oral presentations *against* an applicant shall be allowed no more than 10 minutes. Any member of the Clemency Board may extend the time allotted for an oral presentation up to a period of twice the time provided by the rule. The Governor may further extend the time at his or her discretion.

## HANDOUT C

### Clemency Hearing Procedure

1. Call to order by the Governor.
2. Pledge of Allegiance to the Flag by __(call on a member of Cabinet).
3. Governor's introductory statement.
4. Coordinator for Executive Clemency begins the agenda.
5. Agenda
    1. Category I - Full Pardon
        - A. Favorable recommendations of pardon - includes recommendation for pardons without the firearm authority
        - B. Unfavorable recommendations
    2. Category II - Commutation of Service
        - A. Favorable Recommendations
        - B. Unfavorable Recommendations
    3. Category III - Specific Authority to Own, Possess, or Use Firearms
        - A. Favorable Recommendations
        - B. Unfavorable Recommendations
    4. Category IV - Restoration of Civil Rights and Remission of Fines
    5. Category V - Restoration of Civil Rights
        - A. Favorable Recommendations
        - B. Unfavorable Recommendations
    6. Conclusion of Agenda - Adjournment

## HANDOUT D

### Mock Clemency Hearing Script

GOVERNOR'S OPENING REMARKS:

The Executive Clemency Board is now called to order, and members of the Board are present. I want to welcome everyone here today and let you know that we anticipate hearing all the cases on the agenda and allowing all interested persons an opportunity to speak.

I would like to start our meeting by calling on (any Cabinet member) to lead the pledge to the flag.

We will now consider the clemency agenda. The Parole Commission conducts an in-depth investigation for each clemency case that reaches the agenda. It submits a report to us with its recommendations as to whether the application should be granted or denied. The Clemency Board then reviews the reports and recommendations.

According to Florida's Constitution, the Governor and at least three cabinet members must favorably recommend a case for clemency to be granted. The Rules of Executive Clemency in Florida are designed to allow the Board to concentrate on full pardons, commutations and firearm authority cases.

We will begin with cases in which applicants are applying for full pardon, and ____________________, the Coordinator for the Office of Clemency, will present the agenda and monitor each speaker's respective allotment of time.

COORDINATOR: The first name we have on the agenda under favorable recommendations for pardon is Courtney Jefferson. Ms. Jefferson is present if you would like to hear from her.

GOVERNOR: Ms. Jefferson...

MS. JEFFERSON: Thank you. I would just like to say that I've worked hard for the past few years to put my life together. I've now assumed a job with the state, and it is in law enforcement as a security supervisor. I'm trying to make sure I improve the museum security department. That is basically all I have to say.

GOVERNOR: Ms. Jefferson, it looks like your problems occurred when you were about 18 years old. Outside of this bad behavior in 1985, it looks like you have done very well. All this is behind you now?

MS. JEFFERSON: Yes, sir.

GOVERNOR: I would recommend that the application for a full pardon be granted. Without objection, it's granted.

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COORDINATOR: Number 2, James Turner. His attorney, Mr. Ham, is here and Mr. Turner also.

MR. HAM: Governor and members of the Cabinet, my name is Doug Ham; I'm an attorney from Naples. I have been representing Mr. Turner relative to his application for full pardon from a petit theft conviction that occurred approximately 18 years ago when Mr. Turner was 19 years old. I will now turn the microphone over to Mr. Turner who has flown down from New York to appear before you folks. Thank you.

GOVERNOR: Mr. Turner.

MR. TURNER: Good Morning. This was an incident that took place 18 years ago when I was a senior in college. A group of my classmates came down to Florida. We went out to dinner. One of my classmates, not myself, took a parking sign from the premises and put it in his car. We then went back to the condominium where we were staying.

I was in the condo and when I heard the commotion I came out. The officers made an inquiry as to who took the sign. The person who took the sign did not come forth. As a group we took the position of all for one and one for all. The officer took us down to Lee County where we spent the night. We plead guilty to petit theft and paid a fine. This was a non-event until two years ago when I made a career change, and my employer, the Chase Manhattan Bank, did a check with the Department of Justice and found this on my record. It caused a temporary termination in my employment, prohibited my ability to support my family and build on my career. For this reason I am appealing to this Board for clemency.

I thank the Board and the State of Florida for giving this due process, and I apologize for any inconvenience to the sate and to the Board.

GOVERNOR: Bad night out, wasn't it?

MR. TURNER: Yes, sir, it was a very bad night out.

GOVERNOR: I recommend the application for full pardon be granted. Is there an objection? (If no response, without objection.)

---

COORDINATOR: Number 3, Michael Lake, and Mr. Lake is here.

MR. LAKE: Gentlemen, I chose to appear today to express my appreciation for the consideration for full pardon from the board. I would also at this time like to thank the staff of the Office of Executive Clemency for their assistance.

I am deeply sorry for those who have suffered as a result of this one unfortunate occurrence in my life. I would like to think that because of this incident I have had to come face to face with God, confronting the truth of my daily deeds, which was necessary in developing the faith and hope which I have found essential in facing this and subsequent adversity in my life.

I come here today to assure you that I am at peace with society, with my friends, my dear family and with my God. Thank you for this opportunity.

GOVERNOR: It looks like prior to the time that you were placed on this probation in 1986, we see a series of events from speeding to... what do you think turned your life around? It looks like you were continuously in trouble up to the point that this occurred in 1986.

MR. LAKE: I'm not sure which incident prior to this one conviction, sir.

GOVERNOR: Well just looking at it: Assault with hands and feet, complaint charges dropped, assault, nol-process in 1970; that was assault.

MR. LAKE: Those were incidents that related to my marriage at the time, which was dissolved about the time of this conviction and they were recorded. Two of those items did occur, and they were recorded by her attorney, and I never knew they were recorded until the time of this conviction. The assault was in my home, sir.

GOVERNOR: I would recommend the application for pardon without firearm authority be granted. Is there an objection? (If no response, without objection.)

---

COORDINATOR: Number 4, Charles Edward. Mr. Edward is here.

MR. EDWARD: Good morning, Governor, Cabinet Members. My name is Charles Edward. I was born, raised and still reside in Hillsborough County, in Tampa, Florida. I was raised by two good parents. I was given love, basically everything I needed in life. As I began to get older, my attitude was not in the proper perspective. My way of thinking was not correct, and the world that they were talking about was not the world I was living in at the time. So being caught the night that I had my trouble changed my life forever and corrected my way of thinking.

I have learned three things: One, that we choose our choices, but we can't choose our consequences. Two, it's important to stay in good company. And three, it's a very good idea to obey the laws of the land; that way you don't have to worry about being in trouble with the law.

I would just say that I am shameful for what I have done. I would ask each of you to forgive me and for the people of the State of Florida to forgive me.

GOVERNOR: Well, it looks like you have lived a very good life. You certainly have some people that want to stand by you and recommend you. It looks like you have worked in the fish and game area and become a wildlife preserve officer, so I would recommend that your application for a full pardon be granted.

COORDINATOR: Unfavorable recommendations, Number 1, Stuart Kent. Mr. Kent is not here.

GOVERNOR: What is the basis of turning down this application?

MR. HODGES: Governor, the Commission noted his subsequent traffic record, and we had thought there was no exceptional case to merit clemency consideration at this time.

GOVERNOR: He has been self employed for 15 years. What does his work record look like? We are dealing with a guy that has possession of narcotic paraphernalia -- it's not the biggest charge in the world -- and then the speeding charges; that occurred in 1980, and possession of marijuana in 1985.

MR. HODGES: I think the latest speeding charge was 1987.

GOVERNOR: You've got an expired tag.

ATTORNEY GENERAL: 1987 seat belt.

GOVERNOR: Well I'd recommend the application for full pardon be granted. Is there objection? Without objection.

COORDINATOR: Number 2, Benjamin Charles. Mr. Charles is not here, but his victim, Lisa Martin, would like to speak in opposition, Governor.

MS. MARTIN: Governor, Members of the Cabinet, I would like to thank you for this opportunity for allowing me to speak at this hearing. I came here from Palm Beach County at my own expense because as a mother and future teacher I believe it is my responsibility to protect children from this child molester.

This man applying for clemency today is not concerned with the welfare of our children. As we are all probably aware, studies of child molesters show the vast majority of them cannot be rehabilitated and therefore, continue to be a threat to our children. They rob them of their innocence, rob them of their dignity and inflict painful memories that will always be with them.

If there is anybody here today who believes that this man wouldn't do this again, I'm here today to tell you that you are wrong. He will do this again because he has done this before. To me. I was his seven year-old victim, and I know I wasn't his only victim. This Cabinet can never grant me clemency, and I can never bring back the innocence of my childhood. But this Cabinet can protect other children by denying his request for clemency. Thank you for allowing me to speak.

GOVERNOR: Thank you. What does the record show in regard to the treatment he has undergone, if any?

MR. HODGES: Governor, we don't show any evidence of treatment other than at the relative time of the offense.

GOVERNOR: I would recommend the application be denied.

COORDINATOR: Category Number II, commutation of sentence. Favorable recommendations. Number 1, Eugene Daniels. Mr. Daniels has someone who would like to speak on his behalf very briefly.

MS. BUCHANAN: Good Morning, Governor and Members of the Board. I am Eugene's sister, and I'm very pleased to be able to come here on his behalf today. He was just 15 years old. We had a very rough childhood. My parents were separated when he was 11 years old. We remained with my father, who gave us no supervision. Eugene was on the third-grade level in reading and everything else he did in school. Eugene had no one to care for him, he was left alone to care for himself. And unfortunately, one day he got involved with someone and I can't tell you how he regrets that day. He has regretted it for almost 20 years.

He went into prison. He educated himself. He got his diploma. He is very intelligent. He is learning Spanish. He has learned the air conditioning trade, and has traveled around the state working on them in Florida prisons. He is involved in Jaycees and all kinds of sports. He is very well liked and is a model inmate. He has never been in any trouble that I know of since he has been in prison.

He has a family that loves him and will watch over him. He has a home with me. He and my husband have a very good relationship. He has built a relationship with by daughter even though they have been separated by prison bars.

He made a very bad mistake. The boy who was with him, the boy who did the actual shooting, went to a mental hospital and was released in a few short years. Eugene was wrong; he knows that. He wants a chance to be the kind of person that everybody expects him to be.

GOVERNOR: I would move that the Commission recommend commutation of the 25-year mandatory minimum to make the applicant eligible for parole. Is there objection? (If no objection - without objection.)

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COORDINATOR: Number 2, Arthur Harris. I don't believe anyone is here on his behalf.

GOVERNOR: I see that there are conflicts in some of the testimony. I would recommend the application taken under advisement at this time until we can resolve some of those. Any objection? (If no response - without objection.)

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COORDINATOR: Number 3, Wayne Morris, His attorney, Allen Smith is here.

MR. SMITH: Good morning, Governor and Cabinet Members. I am here on behalf of Mr. Morris who is a 45-year old first offender drug case. He got a three-year minimum mandatory sentence for purchase of cocaine within a 1000 feet of the school. Actually, it was within 1000 feet of a school parking lot. The school was some distance away. Mr. Morris has been in custody since June of 1992 on the three-year mandatory, and you have received a packet of letters from community people. I know you are aware of the recent problems with the courts concerning cases like this. In fact, the Second District Court of Appeals (Florida) just recently, in June of this year, came out with as saying, you know, the law was intended to mean those within a 1000 feet of the school that would have some impact on the school.

GOVERNOR: Well, we passed legislation on that I agree. Is there any reason why we need to take action here now?

MR. HODGES: He is parole release eligible now, Governor, due to Senate Bill 26b that passed last session. We are in the process now.

MR. SMITH: As I understand it, he has been ruled CRD ineligible at this time. He is eligible but they did not give him a date.

GOVERNOR: Well, under the statute, he is eligible, right?

MR. HODGES: That is my understanding, Governor. He is eligible under the statute.

MR. SMITH: I understand that on August the 8th, I believe it was, he was reviewed and determined to be ineligible.

MR. HODGES: Well, they may have determined not to let him go for some reason, but...

GOVERNOR: Well, that is in effect what the Commission is recommending anyway, the commutation of the mandatory minimum sentence to make him eligible for controlled release. Is there an objection? (If not - without objection.)

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COORDINATOR: Category III, specific authority to own, possess or use firearms, favorable recommendations, Number 1, Janice Watson. She is not present.

GOVERNOR: Ms. Watson has said that she has had some serious problems with alcohol and drugs. I would recommend that we take this application under advisement to enable the applicant to undergo substance abuse monitoring for at least 30 days. If she completes that satisfactorily, then I would recommend it be granted.

COORDINATOR: Okay.

GOVERNOR: Is there objection? (If no response, without objection.)

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COORDINATOR: Number 2, Charles Warren. Mr. Warren is not here.

GOVERNOR: I recommend that it be granted. Is there objection? If no answer, without objection.

COORDINATOR: Unfavorable recommendations, firearm authority. Number 1, Vito Giodano. He is not here.

GOVERNOR: I recommend it be denied.

COORDINATOR: Number 2, Sean Pasquale. I believe his attorney, Tom Doyle, is here.

MR. DOYLE: Good morning, Governor, members of the Board. I'm Tom Doyle and I represent Sean Pasquale. I have known Mr. Pasquale for about 20 years. He is 65 years old. He is married and has five children and three step-children. Of his children, one is an attorney, another a USF grad working in business administration, and another a legal secretary. He also has a daughter who is an office manager, a son who is in pharmacy school and another child who is a truck driver.

Mr. Pasquale was charged back in 1975 in the U.S. District Court with a counterfeiting offense. He was convicted after trial. He was sentenced to three years, and he served one and a half years at Eglin Air Force Base.

Mr. Pasquale for most of his productive life has owned lounges, restaurants and nightclubs. He has had numerous burglaries at his place of business, and has twice been the victim of an armed robbery. I think there may be some dispute on the grounds for the unfavorable recommendation as to Mr. Pasquale's prior record.

Sometime ago I sent a fingerprint card to Florida Department of Law Enforcement along with a request that they furnish me with a criminal history record of Mr. Pasquale which I have here. While it shows three different charges over a period of time from 1961 to 1988 for assault and assault and battery, the disposition of each one of those cases was either not processed or dismissed by the judge.

When I asked Mr. Pasquale about these cases, he indicated that because of the business he is in, particularly with night clubs, he frequently has run-ins with people and they lodge charges against him. But I do not see from the printout any other conviction of Mr. Pasquale. He has filed bankruptcy - a chapter eleven reorganization plan that was voluntarily dismissed by him. He has no judgments or lawsuits against him. Other than the 1975 charge he has no prior record.

He is a substantial citizen of Tampa and asks that you restore his civil rights and grant him the specific authority to own a firearm so he can protect himself.

GOVERNOR: You mention restoration of his civil rights. Have his civil rights not been restored?

MR. DOYLE: They have not as yet.

COORDINATOR: Governor, the Commission recommendation is for denial of RCR in Florida and firearm authority, so it is both together. His rights have never been restored.

GOVERNOR: Well, I would recommend that his civil rights be restored and then let him come back to us on the firearm authority at a later time.

COMMISSIONER OF AGRICULTURE: How does he have a license to have a bar?

SECRETARY OF STATE: It's a no-liquor bar. He doesn't have a license to serve liquor; is that correct?

MR. DOYLE: That's my understanding.

GOVERNOR: Alright. Looking around I see that there are three votes against his civil rights being restored. Civil rights just made it. Be restored.

(Three cabinet members registered *no* votes.)

COORDINATOR: Category Number IV, restoration of civil rights and remission of fines. Unfavorable recommendation, Julio Gonzales. Mr. Gonzales' attorney, Mr. Richard Monroe, is here.

MR. MONROE: Good morning, Governor. I'm Richard Monroe. I'm a lawyer from Miami, Florida. I appreciate the opportunity to be here before you. It is a first time for me.

There are a few issues involved that I would like to take up very briefly with the Cabinet, first of all, about his recovery. His recovery from drug addiction is indeed legitimate. There should be loads of records in the file verifying Julio's commitment to recovery. This is not the sort of thing where he just brings in a few letters from a few doctors and says that he is recovering from addiction. He brings meetings into prisons and into treatment centers and has got a bona fide program of recovery. He goes to meetings and is secretary of the group.

Julio desires to be a licensed registered nurse. He went to vocational rehabilitation and did five days a week, six hours a day to get his LPN. He was first or second in his class and was president of his class at the nursing school. He is also attending Miami Community College to become a registered nurse.

Earlier this year he received his license only to have it rescinded because he needed his civil rights restored. He was referred to the South Miami Hospital program to see if he needed monitoring. It was found that it would not be necessary to monitor him. Julio is a fine young man. He has paid his court costs which were $250.00. He has not made substantial payments on his fine of $250,000.00 because he has been a student. Thank you.

MR. GONZALES: Good morning. Governor and Committee. First of all, I would like to thank you for this opportunity, and I would like to say that I am extremely nervous. I have never wanted anything more in my life than to achieve this goal.

I have totally changed my life. I am a new person, as you can see in your files. I did have a substance abuse problem which I am now recovering from. I have been in recovery for two and a half years. After a year in recovery, I went into nursing school, from which I graduated with a 98 average, was voted by my peers as president of the class and I'm just not...I'm trying to paint a picture that I'm not the person I was. I have a goal now. I like who I am today and I really want the opportunity to keep going forth with my profession. In the last year I've seen some amazing things. I helped bring a baby into the world. I have helped people who can no longer help themselves, and that alone has given me such a satisfaction that I would never jeopardize what I feel today by taking a drink or a drug. All I'm asking is that I get this chance to have my civil rights restored and that I am allowed to continue in my nursing career. Thank you very much.

GOVERNOR: I'd recommend his civil rights be restored. Is there objection? (If no answer, without objection.)

MR. GONZALES: Thank you, sir.

COORDINATOR: Governor, one clarification on the Gonzales' case, that was also for remission of fine. Did you restore his rights and the remission of fine?

GOVERNOR: What is the status of his fine?

MR. HODGES: He has paid a small amount, a number of $5.00 payments, probably $100.00 or $200.00.

GOVERNOR: Was he making those payments while he was in nursing school?

MR. HODGES: Only started making them. A $250,000.00 fine.

SECRETARY OF AGRICULTURE: We can reduce it substantially.

INSURANCE COMMISSIONER: Let's reduce it to $2,500.00. That is what they sold.

GOVERNOR: Reduce the fine down to $2,500.00 and make it conditioned upon sending payments in.

MR. HODGES: Would you like to set an amount, Governor?

GOVERNOR: $25.00 a month.

COORDINATOR: Remit the fine to $2,500.00 and require $25.00 a month payments. Is there any objection on that? Is it all passed then?

GOVERNOR: Without objection.

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COORDINATOR: Category Number V, restoration of civil rights, favorable recommendation. Number 11, Bernadette Crews, and she is here, Governor.

MS. CREWS: Governor and members of the Cabinet, I came here mainly today to speak on my own behalf and to try to give you a look at what is in my heart. I don't believe that you can get a feeling of what is really in my heart just through words on paper, which is what you have before you.

I, too, am another substance abuser, recovering substance abuser, and I think that is a key to my case. In 1987 I was addicted to various drugs, crack cocaine being one of them, and through the prolonged use of the drug I lost my ability to reason. I lost my morals. I lost my ability to make proper choices for myself. I subsequently committed, with a group of other people, the crimes which are now under consideration. Then I went to prison for those crimes as well.

I have to say that prison was the best thing that has ever happened to me and I'm extremely thankful that it did happen. It was there that I was finally held accountable for what I had done. I had to look in the mirror and see what I had become. And it was there that I made my decision to turn my life around and change. At that time I vowed that I was going to become a responsible person and to become a person who didn't smoke crack cocaine and rob convenience stores.

At that time I set goals for myself and slowly but surely began to act on those goals; and slowly but surely my life began to turn around.

I voluntarily entered an inpatient drug rehabilitation program followed by three months of a drug rehabilitation house. I have been an active member of Alcohol and Narcotics Anonymous for six years.

I voluntarily attended weekly sessions with a therapist for two years. I also chose to continue my education, obtaining my associate's degree from Manatee Community College and receiving my bachelor's degree, with honors, from the University of South Florida. I have been inducted into several honor societies.

I volunteer for the Department of Corrections as a member of a team that goes to area elementary schools to talk to children about drugs and crime. As you know, I was honored with an early termination of my probation sentence by Hillsborough County court due to the type of rehabilitation after only three years of a ten year sentence.

I am currently a first year law student. I attend Mercer University School of Law in Macon, Georgia. I also receive a scholarship. I voluntarily submitted myself through the Lawyer's Assistance Program of the State Bar of Georgia to undergo for the next three years random drug testing. I'll have to go through a character and fitness evaluation when it comes time to take the bar, and I feel that will help my case there.

Speaking of the character and fitness investigation, that is the reason I'm here. I cannot even be considered for that until I receive my clemency. In order to further my goals that are so important to me and become a productive member of society, I would ask that you consider my plea. Thank you.

GOVERNOR: Young lady, I would say that you've had a career of excelling.

MS. CREW: Lately.

GOVERNOR: No, I think you excelled before, but you just excelled in the wrong direction. God help us if you turn around again after you get your law degree. I think you are doing very well on your course. I'd recommend that your petition be granted.

MS. CREWS: Thank you, sir.

GOVERNOR: Without objection it is granted.

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COORDINATOR: Number 2, Mark Howard. Mr. Howard is not here, but if you have any questions, his attorney, Linda Mullens, is present.

GOVERNOR: I recommend it be granted. Is there objection?

COMPTROLLER: Over my no vote.

GOVERNOR: Without objection, but that one.

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COORDINATOR: Under unfavorable recommendations, Number 1, Luke Colby. He is not here.

GOVERNOR: I recommend it be denied.

COORDINATOR: That concludes our agenda, Governor.

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# *Cop Stop: Can They or Not?*

by
Cynthia Brendle, Zephyrhills High School, Zephyrhills, FL
Jack Perry, Gulfport High School, Gulfport, MS
James Riddiford, Lincoln Park High School, Oak Park, IL
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Charles W. Thomason, Roberto Clemente Community Academy, Oak Park, IL

## INTRODUCTION

The Fourth Amendment promises American citizens the right against unreasonable search and seizure in almost all aspects of life. The students will explore a Supreme Court decision in the study of *Michigan State Police, et al v Rick Sitz, et al* 48 USLW 4781 (1990).

## OBJECTIVES

The goals of this lesson are to:

1. Understand the Fourth and Fourteenth Amendments of the Constitution.
2. Become acquainted with police responsibility involving search and seizure under state statutes.

## TIME REQUIRED

one to two class periods

## MATERIALS

Handout A: The Case of the Police Sobriety Checkpoint
Handout B: Decision
Resource Person

## PROCEDURES

### *Day One*

1. Open general discussion with the following question: "When do you think you can be stopped by a police officer while in a vehicle?"
2. Record student responses on board.
3. Discuss student responses during brainstorming. (NOTE: If the following areas are not included in brainstorming, include them: random highway stop, loud music from cars, DUI, drug profile, stopping teenagers.) The responses can be ranked in the order the students think are most frequent, serious, or common to teenagers, to their degree of legality, etc.
4. Introduce the case of *Michigan State Police v. Sitz.*
5. Divide students into groups of 4 or 5. Give each student a copy of Handout A. Each group will discuss the case and answer the questions at the end of the case. Have each group write its answers on chart paper for class discussion.
6. Compare and discuss the groups' answers.
7. Give each student a copy of Handout B to read. Discuss the court's decision and reasoning. Compare to student responses.

### *Day Two*

1. Invite a resource person (police, sheriff deputy, highway patrol officer) to discuss the case from the law enforcement point of view. (It is important that the teacher contact the resource person prior to the classroom visit to prepare them for the visit. The resource person should be

made aware of Day One's discussion and concern).

2. At the end of the class, debrief the entire activity.

EVALUATION

Students will write an essay which should include the following:

1. How do the students think the media portrays the police (positively/negatively) in terms of search and seizure, and in terms of First Amendment protections?

2. How do the students feel the public could be better educated about these significant issues?

CURRICULUM INTEGRATION

Have the students locate the Court's decision on the Internet instead of providing it for them.

*This lesson distributed through the Warren E. Burger National Repository for Educational Materials on Citizenship and the Constitution Center for Research and Development in Law-Related Education. 1-800-437-1054. Lesson Number: 7104A/901699.*

## HANDOUT A

### The Case of the Police Sobriety Checkpoint

*Michigan Department Of State Police, et al v. Rick Sitz, et al*
58 USLW 4781 - 1990

Lucy Lee, twenty-five years old, has been stopped on several occasions at a sobriety checkpoint operated by the state police. Lucy is a school teacher and also works a part-time job as a waitress. On Friday and Saturday evenings, while returning home from her waitress job, she is sometimes stopped, along with other motorists, at a checkpoint at the exit she takes to her home. Flares are placed along the highway for about a half-mile prior to the checkpoint. Lucy says she is not detained long, maybe a minute or so, while the police ask to see her driver's license. She claims that some officers direct the flashlight in her face and ask prying questions, like, "What are you doing out so late, honey?" Lucy is angry about this hassle. She says she feels like she's being treated like some kind of suspect when she hasn't done anything wrong.

Lucy writes and lobbies her state legislator, Rick Sitz, and demands that something be done to halt the hassling of innocent drivers. Sitz responds that he is opposed to the checkpoints.

Sitz, and five other lawmakers, file a lawsuit seeking an injunction to halt the operation of the sobriety checkpoints. They also ask the court to make a declaratory judgment that the checkpoints violate the Fourth Amendment protection from unreasonable search and seizure. Since there is no reasonable suspicion or probable cause that individual drivers are legally drunk or suspects of any other wrongdoing, then the checkpoints should be halted immediately and declared unconstitutional.

The state police claim that the checkpoints were authorized by the governor based on one of many recommendations made by the state's Drunk Driving Task Force that was established by the state legislature. The Task Force and state police, as well as public opinion, are well aware of the deadly dangers of drunk driving. Drunk drivers cause an annual death toll of over 25,000, nearly one million personal injuries, and more than five billion dollars in property damages. Each statistic is a story of personal tragedy.

Furthermore, the state police argue that the checkpoint inspection is no more intrusive than border and airport inspections. The police point out that on the average, for every 125 cars stopped, two drivers are usually arrested for drunk driving. At least two potentially dangerous drivers are removed from the highway. The police also argue that checkpoints are a deterrent because drivers know they may be stopped at any surprise location.

Sitz and his fellow legislators claim that there are much more effective ways to reduce drunk driving without sacrificing constitutional protections. Checkpoints often require several officers, and this assigned duty detracts or delays other important police operations and criminal investigations. The police intrusion into the innocent individual drivers' expectation of privacy violates the Fourth Amendment's protection from unreasonable search and seizure.

The police claim that there must be a balance between society's interest in safety and saving lives with the minimal intrusion of a sixty-second stop at a sobriety checkpoint. Besides, most law-abiding citizens are willing to make this minor sacrifice to help reduce the dangers from drunken drivers.

## YOU BE THE JUDGE

1. Facts - What are the important facts in this case? (What parties are involved in this case, briefly describe what happened to those involved in the conflict, and what is the major problem or conflict?)

2. Laws & Constitutional Issues - What law(s), is/are involved in this case? What constitutional issue(s) is/are involved in this case?

3. Briefly explain arguments for each party's side in this case.

4. If you were the judge deciding this case, what would you decide and why?

5. Restate the major problem(s) in this case. How would you recommend solving this problem in the future?

## HANDOUT B

### Decision

Majority Opinion - Rehnquist, White, O'Connor, Scalia, Kennedy, Blackmun:

> "The balance of the State's interest in preventing drunken driving, the extent to which this system can reasonably be said to advance that interest, and the degree of intrusion upon individual motorists who are briefly stopped, weighs in favor of the state program. We hold that it is consistent with the Fourth Amendment."
>
> --Chief Justice Rehnquist

Concurring Opinion

> "I noted that the slaughter on the highways of this nation exceeds the death toll of all our wars .... I am pleased that the Court is now stressing this aspect of American life."
>
> --Justice Blackmun

Dissenting Opinion - Brennan, Stevens, Marshall:

> "The court overvalues the law enforcement interest in using sobriety checkpoints, undervalues the citizen's interest in freedom from random, unannounced investigatory seizures, and mistakenly assumes that there is 'virtually no difference' between a routine stop at a permanent, fixed checkpoint and a surprise stop at a sobriety checkpoint.
>
> A motorist with advance notice of the location of a permanent checkpoint has an opportunity to avoid the search entirely, or a least to prepare for, and limit, the intrusion on her privacy. No such opportunity is available in the case of a random stop or a temporary checkpoint which both depend for their effectiveness on the element of surprise.
>
> The most disturbing aspect of the court's decision is that it appears to give no weight to the citizen's interest in freedom from suspicionless, unannounced investigatory seizures. Unfortunately, the Court is transfixed by the wrong symbol - the illusory prospect of punishing countless intoxicated motorists - when it should keep its eyes on the road plainly marked by the Constitution."

# *The Crime Game*

by
John Burton, Pinellas Park High School, Pinellas Park, FL
Margaret Cleghorn, Clearwater High School, Clearwater, FL
Valerie McElveen, Lakewood High School, St. Petersburg, FL
Rod Palmateer, St. Petersburg High School, St. Petersburg, FL

## INTRODUCTION

This lesson is, in essence, a human relations or group cooperation building activity for students. A problem is presented to the entire group. A shared problem requires a solution which can only be discerned through the cooperative endeavor of each person in the group. The lesson is a nice springboard into criminal law and law enforcement study.

## OBJECTIVES

1. The students will develop the following group working skills:
    a. Cooperation.
    b. Group organizational techniques.
    c. Ability to identify leadership.
    d. Effective communication in group dynamics.
    e. Recognizing that each individual has a great deal to offer.
2. The students will demonstrate use of the following critical listening skills:
    a. Relating material that is read or heard to one's own experiences.
    b. Making use of contextual clues to determine unknown meanings.
    c. Discerning between fact and opinion.
    d. Recognizing that which is relevant.
    e. Making logical inferences from what is heard.
    f. Keeping an open mind before forming opinions.
    g. Developing skills relating to the analysis and judgement of propaganda.

## TIME REQUIRED

20 minutes

## MATERIALS

Copies of the Clues, cut into strips - a set for each group

## PROCEDURES

1. The instructor should duplicate "Clues for the Crime Game." Five or six sets will be sufficient. It is a good idea to glue the sentences on different colored paper. It will be easier to put the sets back in the proper packets for future use.
2. The students should be divided by counting off. The activity is a good opportunity for observing leadership potential. If friendships are allowed, the groups may be less equal in abilities for solving the "crime."
3. The instructor will move from group to group and distribute the sentences so that each member of the group receives a mixture of clues.
4. To increase competition between the groups, have each group hand in to the instructor written answers to the following questions. If the answers are incorrect, send the group leader back to work further on the solution. Students' task is to work as a team, using the various clues provided, and figure out the answers to the following questions:
    1. Who was the killer?

2. Motive? Why was the crime committed?
3. Weapon?
4. Who was killed?
5. Where was the crime committed?
6. When?

5. If no group seems to be near a solution, the instructor may drop a hint: Have you tried to put your clues in a chronological order?

## SOLUTION

1. Who was the killer?
   *Answer*: Mr. Scott, with Mrs. Kelley as an accessory.

2. Motive?
   *Answer*: To get rid of Mr. Kelley.

3. Weapon?
   *Answer*: A knife

4. Who was killed?
   *Answer*: Mr. Kelley

5. Where and when was the crime committed?
   *Answer*: In Mr. Scott's apartment between 12:30 and 1:30 a.m.

## EVALUATION

Teachers may observe student performance in the groups to see cooperative participation or the lack of it as the lesson progresses. In addition, students may be asked to evaluate the cooperative performance of fellow group members, making constructive suggestions for future group activities.

## CURRICULUM INTEGRATION

Teachers in other curriculum areas might develop similar "mysteries" or problems for cooperative group problem-solving and decision-making.

*Reprinted from Law Studies for Senior High School, Pinellas County Schools.*

# CLUES FOR THE CRIME GAME

(to be cut into strips -- one set for each group)

The elevator man went off duty at 12:30 a.m.

It was obvious from the condition of Mr. Kelley's body that it had been dragged a long distance.

Ms. Smith saw Mr. Kelley go to Mr. Jones' apartment building at 11:55 p.m.

Mr. Kelley's wife disappeared after the murder.

Police were unable to locate Mr. Scott after the murder.

When police tried to locate Mr. Jones after the murder, they discovered that he had disappeared.

The elevator man said that Ms. Smith was in the lobby of the apartment building when he went off duty.

Ms. Smith often followed Mr. Kelley.

The knife found in Ms. Smith's yard had Mr. Scott's fingerprints on it.

Mr. Kelley had destroyed Mr. Jones' business by stealing all his customers.

Mr. Kelley's body was found in the park.

Mr. Kelley's body was found at 1:30 a.m.

Mr. Kelley had been dead for one hour when his body was found, according to a medical expert working with the police.

The elevator man saw Mr. Kelley go to Mr. Scott's room at 12:25 a.m.

Mr. Jones told Mr. Kelley that he was going to kill him.

Ms. Smith said that nobody left the apartment building between 12:25 and 12:45 a.m.

Mr. Kelley's blood stains were found in Mr. Scott's car.

Mr. Kelley's blood stains were found on the carpet in the hall outside Mr. Jones' apartment.

When he was discovered dead, Mr. Kelley had a bullet wound in his thigh and a knife wound on his back.

Mr. Jones shot at an intruder in his apartment building at 12:00 midnight.

The elevator man reported to police that he saw Mr. Kelley at 12:15 a.m.

The bullet taken from Mr. Kelley's thigh matched the gun owned by Mr. Jones.

Only one bullet had been fired from Mr. Jones' gun.

When the elevator man saw Mr. Kelley, Mr. Kelley was bleeding slightly, but did not seem badly hurt.

A knife with Mr. Kelly's blood on it was found in Ms. Smith's yard.

The elevator man saw Mr. Kelley's wife go to Mr. Scott's apartment at 11:30 p.m.

The elevator man said that Mr. Kelley's wife frequently left the building with Mr. Scott.

# *Drug Testing: Is It Constitutional?*
# *A Fourth Amendment Search and Seizure Question*

by Connie Hankins, Miami Carol City High School, Miami, FL

## INTRODUCTION

This lesson is related to the Fourth Amendment search and seizure issue. There is a lot of publicity in the news about drug testing and whether it is constitutional to test individuals. This lesson allows students to examine the drug testing issue and to make decisions about whether they feel it is constitutional. Students will role play situations where drug testing might be necessary. By doing these role plays, students will become familiar with situations where drug testing might protect other people's safety and they can develop their own opinions. It is important for students to develop views on these issues. Because of the widespread use of drugs and drug testing, students might face one of these situations in the future.

## OBJECTIVES

As a result of this lesson, students will:

1. Explain the rationale behind the Fourth Amendment.
2. List common situations in which a search warrant is not required.
3. Analyze factual situations in order to determine whether a search is lawful.
4. Analyze situations in which drug testing might be appropriate.

## TIME REQUIRED

six or seven class periods

This lesson can easily be broken into two separate lessons. The teacher can simply use the search and seizure material as an entire lesson (using handouts A and B), or the teacher can distribute the handout on search and seizure as an introduction to the activity on drug testing. Either of these lessons can be adapted to be used in two or three class sessions.

## MATERIALS

Handout A: Pre-test/Post-test
Handout B: Search and Seizure: The Fourth Amendment
Handout C: Questionnaire: Drug Testing
Handout D: Scenarios
Handout E: *Schmerber v. California*

## PROCEDURES

1. Introduce the Fourth Amendment by reading it to the class: Then give students a pretest (Handout A) of what situations they feel are covered by the amendment. Allow five to ten minutes to complete the handout. Then collect the handout and tally the students' responses.

2. Give each student a copy of Handout B. Students should read this out loud in class and discuss it. The teacher may conclude the lesson at this point by having students answer the following questions. What are the exceptions to the search warrant/probable cause clause? What are the requirements for a search warrant? What is the meaning of probable cause?

3. Begin class by reviewing the activities of the previous day. The teacher can ask similar questions to the ones asked yesterday. Then give the students the same test as a post-test

(Handout A). Allow the same five or ten minutes to take the test. This time, however, students should be able to tell why they believe the search is or is not reasonable using the last question as a lead in. Students should each be given a copy of the Schmerber case (Handout E). Teachers can use other Fourth Amendment cases if desired. There should be enough time left in the class period for the teacher to note the key points in the case.

### EVALUATION

Student performance during the various activities provides ample opportunity for teacher assessment of learning. In addition, students might write additional cases involving drug testing and then use these to query one another in the application of their law knowledge, stressing making a decision and giving reasons grounded in their study of this issue.

### CURRICULUM INTEGRATION

The science curriculum offers an opportunity for the further study of drugs and their influences upon individuals and society. Math calculations would also be necessary.

The English curriculum offers opportunities to write on search and seizure and drug testing (privacy) issues.

The Journalism curriculum permits students to interview print and electronic journalists on their reporting of drug testing issues in the community.

A tie-in to athletics would be possible with a unit on drug testing of athletes.

*This lesson distributed through the Warren E. Burger National Repository for Educational Materials on Citizenship and the Constitution Center for Research and Development in Law-Related Education. 1-800-437-1054. Lesson Number: 70637A/89764.*

# HANDOUT A

## Pre-Test/Post-Test

For each of the following situations, indicate whether, in your opinion, the police officer conducted a reasonable search and seizure. Explain why or why not.

1. Jim Smith was home one evening when two police officers knocked on the door. When Mr. Smith answered the door, they identified themselves and asked if they could speak to him. Mr. Smith let the officers in and asked what they wanted. They said that they had received information that stolen jewelry and furs were hidden in the apartment. They asked Mr. Smith for permission to search the apartment, and he gave them permission. They conducted a search and found some furs and jewelry. Mr. Smith said they belonged to his wife. The police arrested Mr. Smith.

2. Burt Johnson was stopped for having a broken tail light and arrested for driving after his license had been revoked. Before taking Johnson to the station, the police searched him and found a package containing cocaine inside the pocket of his jacket. Johnson was also charged with possession of drugs.

3. Jessica Falcon was returning to this country after spending two weeks in Europe on a skiing trip. Her luggage was searched by customs officials upon arrival and nothing was found. The customs official also examined her ski poles. They came apart and packages of heroin were found inside. She was arrested for possession of drugs.

4. The police were chasing a man who had just robbed a bank. The man had a gun. He ran into a building. The police chased the man to the third floor where they saw him enter into an apartment and arrested him. Then they searched the chair he had been hiding behind and found a gun, which they seized.

5. While on patrol, a police officer passed a parked car. The officer looked into the car through the closed window and saw a shotgun on the back seat. The owner of the car returned and was asked if he had a license for the gun. When he said he did not, he was arrested.

6. Armando Schmerber was at the hospital being treated for injuries that had occurred as a result of an automobile accident. Schmerber was the driver. Police directed a physician to withdraw a blood sample from Schmerber against his wishes. As a result of the blood test, Schmerber was arrested for driving under the influence.

# HANDOUT B

## Search and Seizure - The Fourth Amendment

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated, (1) and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized (2).

I. First, you must determine if the government activity is a search.
   a. If yes, see #2 (below).
   b. If no, the amendment does not apply.

II. If the activity is a search, you must then determine if the government activity is reasonable.

III. What is a reasonable search?
   A. To be a "reasonable" search it must be based on a search warrant issued when there is probable cause.
   B. Requirement for a search warrant:
      1. Each search warrant can allow the search of only one person, place, or vehicle.
      2. The warrant must identify the exact area to be searched.
      3. The type of property is being searched for must be stated on the warrant.
      4. The police officer must swear under oath that the information he is giving is true.
      5. The warrant must be issued by a neutral and properly authorized judge.
      6. The person who issues the warrant must believe there is a probable cause.
   C. Probable cause requirements:
      1. Probable cause to search--evidence that leads a reasonable person to believe that if he looks in a specific place he would find specific criminal goods.
      2. Probable cause to arrest--evidence that leads a reasonable person to believe that a crime has been committed and the person to be arrested is the one who committed the crime.

IV. Exceptions to the search warrant and/or probable cause requirements:
   a. Search incident to a lawful arrest--The police can search a person and his immediately surrounding area for hidden

weapons or evidence that could be destroyed (do not need probable cause).

b. Items discovered in plain view--can be seized by an officer from a place where the officer has a right to be.

c. Automobile search--is reasonable if the police officer has probable cause to believe there is contraband in the automobile.

d. Stop and frisk--the police officer must reasonably think a person is behaving suspiciously and may be armed.

e. Voluntary consent--if a person agrees, the police can conduct a search without a search warrant or probable cause.

f. Hot pursuit--if police are in hot pursuit of a suspect, they do not have to get a search warrant to enter a building they have seen the suspect enter. They can also seize evidence they find while in hot pursuit of a felon.

g. Emergency situations--sometimes police do not have time to get a warrant because of some emergency situation like a bomb scare, a person's life in danger, or some other urgent situation.

h. Border and airport searches--custom agents may search without probable cause or a warrant. Also, a metal detector search is legal in an airport.

## HANDOUT C

### Questonnaire: Drug Testing

1. Do you think there are jobs in government that should require drug testing?
   [ ] yes [ ] no

2. Would you consent to a drug test in order to keep your job?
   [ ] yes [ ] no

3. Do you think employers could or should ever require drug testing as a condition of employment?
   [ ] yes [ ] no

4. Do you care if your teachers use drugs?
   [ ] yes [ ] no

5. Do you care if your teachers use drugs on the job?
   [ ] yes [ ] no

6. Would it bother you if one of your lawmakers used drugs daily?
   [ ] yes [ ] no

7. Do you think a person could or should be fired because he refused to take a drug test?
   [ ] yes [ ] no

8. Do you think drug testing is fair?
   [ ] yes [ ] no

9. If you were a manager, would there ever be a time when you would want to drug test your employees?
   [ ] yes [ ] no

10. Do you think police officers should be tested for drug use? [ ] yes [ ] no

11. Do you think people should be allowed to use drugs whenever or wherever they choose?
    [ ] yes [ ] no

## HANDOUT D

### SCENARIO I

You are a passenger in an airplane that is flying into a large international airport. You have heard rumors that this airport has a problem with drug use amongst the air traffic controllers. You understand that this is a highly stressful job, but you are concerned about your safety at this moment. You have been reading in the newspapers about the constitutionality of drug testing of individuals by their employers. Until now you have not paid much attention to this problem, but now it seems like an appropriate time to make a decision concerning the constitutionality of this right. Should the airlines drug test these controllers in order to insure the safety of the many people who are flying on this airline?

### SCENARIO II

You live in a city that is constructing a nuclear power plant. This type of a plant could prove to be extremely dangerous if precautions are not taken. You want the builders to be very careful with the selection of the people who will be involved with the construction of the power plant. Several times in the past, hazardous situations have developed because of poor work done by the construction company. After checking into the causes of these situations, it was determined that many of them were caused by workers who were using drugs. You have heard about drug testing but are not sure if is constitutional. Do you allow the government to drug test the construction workers to insure the safety of the community?

### SCENARIO III

You are a teacher at a school that has been dealing with increased use of drugs and alcohol among the students and the faculty. The local newspaper has blown the situation out of proportion. Parents are calling the school and the school board demanding immediate action to be taken to find out which of the faculty members are involved in the use of illegal drugs. Parents are requesting that a mandatory drug test be given to all faculty members, including the principal. You are not sure that the test is constitutional and do not want to be subjected to the test just to hush the parents. You are wondering if the school can dismiss a teacher who refuses to take the test.

# HANDOUT E

*Armando Schmerber, Petitioner v. State of California*

In 1966, a young man named Armando Schmerber was arrested at a hospital while being treated for injuries he sustained after an accident he was in while he was driving his car. He was convicted in a Los Angeles Municipal Court, California, of driving an automobile while under the influence of intoxicating liquor. Despite Schmerber's protests, a police officer ordered a blood sample be taken from Schmerber by a doctor. The report of the chemical analysis of the test, indicating intoxication, was admitted into evidence at the trial. Schmerber argued that the state violated his right to due process of law under the Fourteenth Amendment, his privilege against self-incrimination under the Fifth Amendment, and his right against unreasonable searches and seizures under the Fourth Amendment. Schmerber took his case to the Appellate Court, but the Appellate Department of the California Superior Court affirmed the conviction. The Supreme Court also affirmed the conviction and held that according to the facts, Schmerber's constitutional rights had not been violated by the compulsory blood test and the admission of the evidence at the trial.

# The Eighth Amendment and the Rights of Inmates

by Cynthia Brendle, Zephyrhills High School, Zephyrhills, FL

## INTRODUCTION

When the Eighth Amendment is mentioned, most people think of capital punishment, but the Eighth Amendment encompasses much more than the death penalty. It has also come to represent the rights of those who are imprisoned. This lesson will focus on this aspect of the Eighth Amendment, enable students to decide what rights they think inmates should have, and then compare these decisions to actual court decisions.

## OBJECTIVES

As a result of this lesson, students will:

1. Practice group process and critical thinking skills.
2. Identify the constitutional rights in each case studied.
3. Understand the issues involved in each case and how each relates to the Eighth Amendment.

## TIME REQUIRED

one to two class periods

## MATERIALS

Handout A: Introduction
Handout B: Cases for Discussion
Handout C: Decisions

## PROCEDURES

1. Ask students what they think it is like to be an **inmate**. Then ask what **rights** inmates should enjoy in prison.
2. Have students read Handout A. Ask the questions.
3. Divide the class into four groups. Assign each group a case to discuss from Handout B. The students are to play the role of Supreme Court justices and decide if the plaintiff has been denied any Eighth Amendment rights and which rights they should be granted in this case.
4. After the groups have discussed the case and made their decision have them share their case and decision with the class.
5. When all groups have finished sharing their decision, pass out Handout C - The Decisions. Each group should then compare their decisions with those of the court. At this time the class can discuss major discrepancies between their decisions and reasoning and/or that of the court.

## EVALUATION

The group discussion and responses will serve as the evaluation. If a written evaluation is required, have the students discuss in writing their reasoning versus the courts' reasoning for each case in Handout B.

## CURRICULUM INTEGRATION

Select an issue involving "prisoners' rights" and then take a position on that issue. Proclaim your position on that issue through the design of a poster...the writing of a song or poem...the development of several persuasive slogans...or the production of a word or picture collage.

One feature of the Eighth Amendment on this issue of prisoners' rights is **unusual**. Discuss the concepts **usual** and **unusual** with your mathematics teacher. Does he or she use these terms in his or her field? Are there similar terms which he or she uses in mathematics? In mathematics, what is "usual" and how many instances must occur for something to be "unusual" or pass from being "unusual" to being "usual"? (Example: Is the death penalty **unusual** when 38 states impose that penalty? Might it be said to be **usual**? Beyond the borders of the United States, is the death penalty **usual** or **unusual**?

Another feature of the Eighth Amendment is **cruel**. How do you define cruel? How do your classmates? Do a word study on the concept **cruel**. Definitions. Roots? Meanings in the past? Which word is the best opposite of our uses of the term **cruel** (mercy?). Give examples of the meaning of **cruel** today.

# HANDOUT A

## The Eighth Amendment and the Rights of Inmates

The Eighth Amendment to the United States Constitution states: *Excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishment inflicted.*

The Eighth Amendment has been the topic of much controversy mostly concerning the death penalty, but it also covers the treatment of those convicted of crimes. It is thought that the Eighth Amendment was written to eliminate torture which had been used in dealing with those convicted of crimes. Public punishment usually in the form of public whippings and the use of the pillory, as well as the death penalty, were common sentences in the Eighteenth Century. The framers of the Constitution did not give specific instructions on what was to be considered cruel and unusual punishment.

The Constitution is a "living" constitution - one that changes and adapts with the times. In the same way, the Supreme Court is an evolving entity which changes with the personalities of the court, as do the people with their changing beliefs and ideas. This country's standards of decency also change with each new generation.

The Supreme Court in *Furman v. Georgia* (1972) stated that the state must treat its members with respect for their worth as human beings. It continued by issuing guidelines to determine if a punishment would be considered cruel and unusual. They are:

1. The punishment must not be too severe for the crime.
2. The punishment must not be imposed arbitrarily.
3. The punishment must be acceptable to society.
4. The punishment must not be excessive.

Today prisoners are going to court to obtain rights promised in the Eighth Amendments' clause that prohibits cruel and unusual punishment. These suits cover everything from corporal punishment to overcrowding.

## DISCUSSION QUESTIONS

1. What is the purpose of punishment?
2. What does cruel and unusual punishment mean to you?
3. What rights should prisoners have? Explain.

## HANDOUT B

### CASE 1

Joel was born with an abnormal heart condition. When he was three years old, several doctors made recommendations for his health, including open heart surgery. Because of his family's financial situation, none of the recommendations were taken.

Prior to his imprisonment in a federal penitentiary he suffered from headaches, nausea, shortness of breath and a general inability to endure long periods of physical exertion without periods of frequent rest.

For several years immediately prior to his imprisonment he worked as an auto mechanic, on machine maintenance at a manufacturing plant, and as an equipment spray painter with another manufacturer. He worked more than forty hours a week, and engaged in auto racing at local "drag strips". Joel testified that he could manage this as long as he could work at his own pace.

When Joel entered prison, he was given a routine physical exam by a medical assistant. The examiner found a heart abnormality and had Joel examined by a doctor. This doctor proclaimed him "fit for regular duty". This decision was made using the information Joel gave them: his medical history, previous activities engaged in, the first exam which included laboratory work and an audio heart exam, and on the doctors agreement. A cardiac evaluation was also recommended, but the recommendation was not given urgent status.

During the interview with the classification board, Joel never mentioned his heart condition, and he was given a job in the landscaping detail. He did tell his supervisor about his "bad heart" and was told to work at his own pace and advise the supervisor immediately if any problems occurred. His initial job was mowing, and he did not experience any difficulty for about ten weeks. He then experienced some pain and was immediately taken to the medical center where no change in his heart condition was found. His supervisor tried three times to have his work detail changed but was not successful. He remained in landscaping and was given the lightest job: carrying a sprayer with herbicide. He didn't complain again and was completely relieved of duty within two weeks.

He became sick and was flown to an Air Force hospital where he received open heart surgery. The surgery was a success. The consensus of the medical personnel was that his duty at the prison did not cause or weaken his heart condition and that the surgery essentially cured him.

The plaintiff has sued the prison officials for negligence under the rights secured by the Fifth and the Eighth Amendments of the United States Constitution. He is asking for $100,000 from the United States for injuries he sustained as a result of wrongful acts and omissions.

CASE 2

The inmates at a maximum security state prison filed suit on behalf of themselves and other inmates contending that "double celling" violated the Eighth Amendment prohibition of cruel and unusual punishment in that the cells were single cells meant for one inmate and that double celling confined cellmates too closely and promoted general overcrowding in the prison. They complained that the prison facilities and staff were overwhelmed and that general movement as well as physical and mental freedoms in the prison would be limited as a result of the overcrowding.

CASE 3

A maximum security prison has a section especially for inmates that cannot reside within the prison's general population because of misconduct. In October of 1984 these inmates began to create disturbances. Prison officials tried to stop these disturbances by depriving the inmates of privileges and personal property and by talking to problem inmates. The disturbances continued, and by May 1985 the inmates were setting fires, throwing human wastes on staff members and food service carts, and verbally and physically abusing the staff. The inmates also refused to return to their cells after shower and exercise periods.

The prison layout made it difficult to discipline individual inmates. Because of these conditions, prison officials decided that to ensure the safety of the inmates and staff, they would order a lockdown.

Regular prison meals were canceled; inmates were to receive two sandwiches and milk three times daily for the duration of the lockdown. Inmates received sandwiches but not milk and at times were unable to drink water because the sink was not turned on.

The lockdown did not stop the disturbances, including the fires. The inmates set fire to materials in their cells and threw them out. Officials used a high-powered fire hose to fight the fires. The officials became aware that the prisoners had armed themselves with homemade knives.

The officials then ordered a shakedown to remove all personal items and most combustible items from the cells. Each inmate was to have an undergarment, a jumpsuit, a mattress, one set of sheets, and a blanket. All other items were to be taken from the cell. All orders were followed except the inmates were not given the jumpsuits.

During the shakedown, knives were found, and one officer was attacked with a sharpened toothbrush. The officers were spat upon, cursed at, and had human wastes thrown on them. After the lockdown all personal items were returned to the inmates.

Some of the inmates brought suit saying that their rights ensured by the Eighth and Fourteenth Amendments had been violated by not receiving the jumpsuits, their Fourteenth Amendment rights were denied by having their diet restricted, and their Eighth Amendment rights were violated by being sprayed by the high-powered fire hoses while putting out fires.

### CASE 4

An inmate was injured when a bale of cotton (about 600 lbs.) fell on him while he was unloading a truck. He continued to work for four hours and was then granted a pass to the prison hospital. He was checked by a medical assistant for a hernia and sent to his cell. Within two hours the pain was so bad that he returned to the hospital where he was given pain pills and examined by a doctor. The next day he saw another doctor who diagnosed the injury as lower back strain and prescribed some muscle relaxants and pain killers; he was given a cell-pass so that he could remain in his cell except for showers, and he was moved from an upper to a lower bunk for a week. The next week he was given a new pain reliever, stayed on the same muscle relaxant, and continued on cell-pass except for meals and showers. The next week the pain reliever was changed back to the original, and he remained on cell-pass.

One month later, despite his statement that his back still hurt, he was returned to work. When he told them he was in too much pain to work, he was segregated from the others and taken before the disciplinary committee. He complained to the committee that his back was still injured and that he was suffering from high blood pressure. It was directed that he should be seen by another doctor. He was given medicine for his high blood pressure and pain relievers for his back. This pattern continued for two months during which time he complained of chest pains but was refused medical care.

He filed suit stating that his Eighth Amendments rights had been violated by refusal to provide adequate medical care.

# HANDOUT C

## Decisions

CASE 1 - *Shepard v. Stidham*, 502 F. Supp 1275 (1980)
Based on precedents that the Federal Tort Claims Act confers jurisdiction for actions against the United States, not individual employees, the negligence part of the suit could not be handled in this court citing *Aston v. U.S.* Inmates who were injured while working in federal prisons are not compensated under the Federal Tort Claims Act. The court found that none of the individual defendants were negligent in their treatment of plaintiff; they all exercised reasonable care.

The plaintiff received surgery for a heart condition with excellent results. No one suggests that the plaintiff's work brought on the condition which required surgery. No one suggests that he did not benefit greatly from the surgery because of his status as a prisoner. Based on these reasons, plaintiff's claim of negligence should be denied.

If the defendants' conduct did not constitute negligence, likewise it did not amount to an Eighth or Fifth Amendment violation. To establish an Eighth Amendment violation the plaintiff must show "deliberate indifference to serious medical needs" on the part of prison officials. (*Estelle v. Gamble*) The defendant's conduct falls far short of constituting a violation of Eighth Amendment rights.

CASE 2 - *Rhodes v. Chapman* 452 U.S. 337
"Conditions that cannot be said to be cruel and unusual under contemporary standards are not unconstitutional. To the extent that such conditions are restrictive and even harsh, they are part of the penalty that criminal offenders pay for the offenses against society."

The double celling did not lead to deprivation of food, medical care, or sanitation, nor did it increase violence or create other intolerable conditions. Therefore, double celling does not constitute cruel and unusual punishment. The prisoners' rights under the Eighth Amendment were not violated.

CASE 3 - *Campbell v. Grammar*, 889 F. 2d 797 (8th Cir., 1989)
Because preventive measures are not usually intended as punishment they "must involve more than ordinary lack of due care" to violate the Eighth Amendment. Prison officials are compelled to balance competing concerns of ensuring the safety of inmates and staff and of using the least confining or least dangerous measure with those who threaten the safety of others. If the measure was imposed in a good faith effort to maintain and restore discipline, it will not be held as a violation of the Eighth Amendment. A measure cannot be used "maliciously and sadistically" for the

purposes of causing harm (*Johnson v. Glick*). To determine if conduct was malicious and sadistic courts must consider: 1) the need for application of force, 2) the relationship between the need and the amount of force used, and 3) the extent of injury inflicted..." (*Wyatt v. Delaney*).

The court did not consider the lack of jumpsuits as a violation of the Eighth Amendment but did find the sprayings to be in violation of Eighth Amendment rights. Each of the three plaintiffs injured in the spraying received monetary awards: $750, $100, and $50.

Case 4 - *Estelle v. Gamble*, 429 U.S. 97
The Eighth Amendment covers more than barbarous punishments; it embodies "broad idealistic concepts of dignity, civilized standards, humanity and decency... against which we must evaluate penal measures" (*Jackson v. Bishop*, 404 F2d 571) .

The government has an obligation to those whom it is punishing by incarceration. An inmate must rely on prison officials to meet those needs, or they will not be met. Denial of medical care may result in pain and suffering which would not serve any purpose. This is inconsistent with contemporary standards of decency as manifested in legislation.

Deliberate indifference to serious medical needs of prisoners constitutes "unnecessary and wanton infliction of pain" (*Gregg v. Georgia*). In order to state a claim, a prisoner must prove deliberate indifference that can offend "evolving standards of decency" in violation of the Eighth Amendment.

In this particular case, the Court ruled that Gamble received adequate treatment. They also stated that his complaints were the equivalent of negligence or malpractice, which is not equal to a constitutional violation.

# *Evaluating a School District's Human Dignity Policy*

by Diana Hess, Constitutional Rights Foundation - Chicago
with assistance from
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Citizen Education in the Law, Washington, D.C.

In 1988, a K-12 school district in Michigan adopted a Human Dignity Policy in response to concern about a high school student distributing copies of an offensive handout to students in a government class.

The handout, entitled "Nigger Application for Employment," asked such questions as: number of children on welfare, number of legitimate children - if any; martial status - common law, shacked up; illness you have had in the past year - mumps, VD, etc.

Many students and teachers were disgusted by the handout and deeply offended by its racism. Shortly after the incident, the school board adopted a Human Dignity Policy which stated:

> The Board of Education, recognizing that we are a multi-racial, multi-ethnic school district, believes it is a part of our mission to provide a positive, harmonious environment in which respect for the diverse make-up of our school community is promoted. A major aim of education in the school district is the development of a reasoned commitment to the core values of a democratic society.
>
> In accordance with this aim, the school district will not tolerate behavior by students or staff which insults, degrades, or stereotypes any race, gender, handicap, physical condition, ethnic group, or religion.
>
> Appropriate consequences for offending this policy will be specified in the student code of conduct of each school. Staff members offending this policy will be disciplined in accordance with provisions of the appropriate employee master agreement with the school board.

## APPLYING THE POLICY

For each of the following situations, determine whether or not the Human Dignity Policy has been violated. If you think it has been violated, suggest what the "appropriate consequences" should be for each violation.

1. During recess, a third grade girl shouts "boys are stupid and mean" to a boy on the playground after he sticks his tongue at her.

2. During a class discussion on affirmative action in the 11th grade law class, a white student says, "If blacks would just work hard like my ancestors did, they would be able to get jobs based on merit. Black people are just using affirmative action to mask their laziness." An African-American student responds, "That is a typical racist comment - whites just don't like affirmative action because they want to make sure African-Americans are locked out of good schools and jobs."

3. While giving a speech in a speech class, an 8th grade student tells, as an attention-

grabber, what he considers to be a joke. The joke disparages the intelligence of Polish people. Polish students in class are offended.

4. After much discussion, a high school principal decides not to put the annual Christmas tree on the roof of the school in December. Many students and staff protest. A teacher says to her students, "The reason we don't have a tree this year is because the Jewish teachers raised a fuss." The teacher then proceeds to list the names of the Jewish teachers to her students.

5. Two Hispanic 9th graders are shouting to each other in the hallway during passing period. One boy calls the other a "dirty spic".

ISSUES TO CONSIDER

1. Should public schools protect students and teachers from being offended on the basis of race, gender, handicap, ethnic group, or religion?

2. Does the Human Dignity Policy violate the First Amendment of the United States Constitution?

3. What educational values are being enhanced or diminished by this policy?

4. Should the degree of free expression permitted be different in a high school than in a college or university?

5. How can respect for human dignity be promoted and enforced in public schools?

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# *Fingerprinting*

by Tom Speicher, Martin County High School, Stuart, FL

## INTRODUCTION

Fingerprinting is one tried and true method of identification. It is of course just one of many alternative methods of identification used by law enforcement in its quest to investigate and build a case regarding "who dunnit". Crime scene investigation in literature and real life focuses on fingerprints as the main indicator of identity. This lesson permits students to investigate the rudimentary information on fingers and their indicators of identity.

## OBJECTIVE

Students will learn how to:

1. Take fingerprints from different surfaces.
2. Study general types of prints.
3. Identify unknown prints from classmates.

## TIME REQUIRED

two class periods

## MATERIALS

a new notepad or unopened package of white paper
black tempera paint powder
transparent tape
a sheet of newspaper
a hand-held lens
Handout A
Handout B

## PROCEDURES

Ask students to list alternative ways that the police and other law enforcement personnel use to identify a person. As students compile their lists, distribute Handout A. Ask students to find the ways which the Florida Department of Law Enforcement used on this sheet to identify "wanted persons." Which ways are missing? DNA, fingerprints, etc. What does FPC mean?

Focus upon fingerprints. Distribute FBI wanted posters or United States Marshal's wanted posters. They will contain fingerprints as well as other data.

A police officer might come to class and do thumb prints for each student to take home for his or her parent's files.

Distribute Handout B and review the brief history of fingerprints usage. What are the important features of fingerprints in identification? Review the features of fingerprints -- arches, loops, and whorls. Students might study their own thumb prints for examples of arches, loops and whorls.

Before class a student touches different objects in class. Members of the class will lift unknown (to them) prints. Each class member is printed. Students will study various general types of prints and then will try to match unknowns to the prints taken from the class in effort to identify the unknown student.

a) Lay a sheet of newspaper on top of lab tables.
b) Carefully take a sheet of paper from the stack, without touching any part of paper except the edges.
c) Place paper on desktop.
d) Students hold fingers far apart, press fingertips firmly onto the paper without rolling hand or moving fingers. Lift hand off paper.
e) Students sprinkle a small amount of paint powder (about one tablespoon) onto the paper.
f) Carefully they lift up the paper holding it only by the edges. Then hold the paper horizontally above the newspaper and shake the paper so that the paint covers the entire surface. Dump the excess paint powder onto the newspaper.
g) Next, students place a piece of transparent tape over each fingerprint that can be seen on the paper.
h) With a pen, students mark which hand and finger each fingerprint came from.
i) They then use a hand-held lens to inspect their fingerprints and look at general fingerprint patterns supplied and study the main pattern in each of the fingerprints.
j) A few students lift the latent prints from object touched by unknown student.
k) Class then tries to identify unknown prints by comparing to prints of each class member.
l) Students then compile a portfolio of findings which reviews and summarizes the lesson.

## EVALUATION

Give students a sheet with five fingerprints and ask them to identify one loop, one arch and one whorl.

The teaching activity involves performance which is an assessment of learning -- the taking and comparison of fingerprint data.

## CURRICULUM INTEGRATION

Interview English teachers to ask for short stories which involve the collection of fingerprint data...or stories which turn on the quest of establishing a person's identity.

Interview science teachers to explain the presence of fingerprints and their apparent uniqueness across a population of persons in a region.

Interview the school resource officer to ask about problems with using fingerprint data in law enforcement. Can technology be expected to aid in overcoming any of these problems? How?

# HANDOUT A

## Alternative Ways of Identification

**Florida Department of**
**Law Enforcement**
Division of Criminal Investigation
Investigative Services Bureau
P.O. Box 1489
Tallahassee, Florida 32302-1489

**DESCRIPTION**

RACE/SEX: White male
DPOB: 6-24-64, Cuba
HGT/WGT: 5'6", 135 lbs
HAIR: Black
EYES: Brown
SMT: Tattoo on right calf
FBI: 698 784 CA1
FDLE: 2 017 293
SSN: 589-01-4040
FPC: 17 19 15 PM 11
10 13 15 16 13

**JUAN JESUS FLEITAS**

**AKA:** Fernandez Chino, Fleitas Chino, Chino Fernandez, Chino Fleitas

**Remarks:** Wanted for escape by the Palm Beach County Sheriff's Office and the Florida Department of Corrections, and the FBI on UFAP charges. He escaped from the Belle Glade Correctional Institution, by tunneling under the prison wall, while serving a life sentence for first degree murder with a firearm.

**FDLE Case:** MI95-57-001

**Authority:** FDLE, Miami

**DESCRIPTION**

RACE/SEX: White male
DPOB: 6-9-58, MA
HGT/WGT: 6'1", 160 lbs.
HAIR: Blond/brown
EYES: Blue
FBI: 979 948 AA1
SSN: 465-21-1081
466-21-1033
FPC: PM 67 PM PM PO
DI PO 16 DI 17

**DONALD MICHAEL SANTINI**

**Photo:** Prior to 1984, Aged enhancement

**AKA:** Joseph Brewster, Steve Suice, Donald Chapman, Brian Lewis, Charles Michael Stevers, Chuck Trimble, John Trimble, Marc Trimble, Michael Trimple

**Remarks:** Wanted for first degree murder, by the FBI on UFAP charges, and the Galveston, TX, County Sheriff's Office for aggravated armed robbery with a knife.

**FDLE Case:** TM94-57-011

**Authority:** Hillsborough County Sheriff's Office, FDLE

## CONSIDERED ARMED AND DANGEROUS

**DESCRIPTION**

RACE/SEX: White male
DPOB: 3-18-70, FL, uses 11-3-70
HGT/WGT: 5'11", 170 lbs.
HAIR: Brown, may be dyed blond
EYES: Blue
SMT: Heart on both arms, lightning bolt on chest, tattoos on legs & back
FBI: 788 212 EA6
FDLE: 2 224 327
SSN: 264-89-7015
264-99-0964
FPC: 15 TT 08 10 11
10 55 11 08 06

**ALBERT LEON FLETCHER, JR.**

**AKA:** Lee Fletcher, Kevin W. Woodside

**Remarks:** Wanted for escape while awaiting trial for first degree murder, aggravated battery, aggravated assault, armed robbery, and probation violation reference armed burglary, and on UFAP charges.

**FDLE Case:** BK95-57-001

**Authority:** Pasco County Sheriff's Office, FDLE

**DESCRIPTION**

RACE/SEX: White male
DPOB: 4-8-49, uses 6-6-45 & 12-31-48
HGT/WGT: 5'5", 150 lbs.
HAIR: Black
EYES: Brown
SMT: "Jesus" on left breast
OCC: Painter, mechanic
FBI: 219 509 CA9
FDLE: 1 905 063
FPC: PM 64 14 PO 11
PM 65 15 PO SR

**JORGE VELEZ**

**Photo:** 1987

**AKA:** Edgardo L. Alvardo, Jose Arelardo, Jorge Belez, Luis Gonzaga-Munoz, Jose Arelardo Munoz, Edwin Osbaldo Padilla

**Remarks:** Wanted for first degree murder. Velez is allegedly involved in trafficking cocaine and is believed to be in the South Florida area using an alias.

**FDLE Case:** 598-57-0014

**Authority:** Pembroke Pines Police Department, FDLE

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# HANDOUT B

Fingerprints were first offered as a solution more than a century ago.

The time was in the late 1870's. The place, Hoogly, near Calcutta, India. Sir William Herschel (the British "Magistrate and Collector") made a defendant's fingerprint part of the court records. This prevented his family from hiring a stand-in to serve his sentence or from presenting a purchased corpse to the jailers in lieu of a real prisoner.

Herschel also used fingerprints as "manual signatures" on wills and deeds, and to prevent the Indian equivalent of Social Security fraud: the impersonation of dead prisoners to collect their pensions.

Herschel's innovation -- fingerprint verified records -- has lost none of its potential during the past twelve decades. In fact, the technique is at the heart of the latest criminal record information systems.

## THE FINGERPRINT

The arches, loops and whorls on your hands and feet are nature's non-skid surface. Once the pattern of friction ridges and valleys form (near the end of the first trimester of fetal development) they remain unchanged throughout your life.

Duplicate patterns have never been found -- not even on the fingers of the same hand, nor in the hands of identical twins.

Technically speaking, you don't "have" fingerprints; rather, your ridges and valleys leave:

> **visible fingerprints** -- when they are coated with ink, blood, grease or other pigmented materials
>
> **latent fingerprints** -- the residue of evaporated sweat when they touch appropriate surfaces (if you examine a finger with a magnifying glass, you'll see tiny sweat ducts along the ridges)
>
> **plastic fingerprints** -- impressions in soft surfaces, such as wet paint, wax, clay or putty. Fingerprints come in three basic patterns:

1. Arches ("plain" and "tented")
2. Loops ("left-leaning" and "right-leaning")
3. Whorls ("plain", "central pocket", "twinned" and "accidental")

Fingerprints are tenacious. They will survive cuts, burns and skin diseases -- although some occupations (bricklaying, for example) can permanently change the fingertips, and some diseases will erode the ridge pattern. In most cases, damaged patterns can still provide positive identification.

Fingerprint evidence is virtually unassailable at a criminal trial. The first U.S. criminal trial to prove the point was *People v. Jennings*, in Cook County, Illinois, in 1911. Jennings was convicted -- and later executed -- for murdering a homeowner during a burglary. He had foolishly touched a recently painted porch railing as he fled. The soft paint captured a perfect set of his fingerprints.

*Reprinted from "Proof Positive," Performance (Unisys), Issue Two, 1994, pp. 2-7. Unisys Corporation, Government Systems Group, 8201 Greens Bono Drive, McLean, VA 22102.*

# Freedom of Expression

by The State Bar of Texas

## INTRODUCTION

This activity uses hypothetical situations to explore the proper boundaries of free expression. Students will understand the role of the Supreme Court in interpreting the limits of freedom of expression. This strategy can be used as part of a social studies unit on the Constitution and Bill of Rights, or in units on citizenship or rights and responsibilities.

## TIME REQUIRED

two class periods

## MATERIALS

Handout A: First Amendment Quiz
Chalkboard or overhead projector

## PREPARATION

Read "Summary of Law for Teachers and Lawyers" (below) for an overview of Supreme Court cases involving free expression. Review First Amendment quiz, "Defining Proper Boundaries for Free Expression", to guide discussion with students.

## PROCEDURES

1. Ask students to tell you what they think of when they hear the phrase "freedom of expression." List their ideas on the chalkboard or overhead transparency.

2. Ask students where we get this freedom or right. Read the First Amendment to them: "Congress shall pass no law...abridging the freedom of speech, or of the press; or the right of the people to peaceably assemble, and to petition the Government for a redress of grievances."

3. Compare the types of expression listed in the First Amendment to the students' list of ideas.

4. Ask: Is freedom of expression absolute? Can you say anything you want, anywhere you want, anytime you want? Ask students what the following quotes mean:

   > "...free speech would not prevent a man in falsely shouting fire in a theater and causing a panic" (Holmes, 1919, *Schenk v. United States*)
   >
   > "...your right to swing your fist stops at where my nose begins..."

5. Pass out First Amendment quiz, Handout A: "Defining Proper Boundaries for Free Expression." Discuss each hypothetical situation with students. Identify the circumstances in which freedom of speech is limited. Note: For elementary students, you may want to reduce the number of hypotheticals. For more advanced students, you may want to discuss the facts, issues, arguments, and decisions in the actual Supreme Court cases.

6. Conclude with a discussion of why freedom of expression is considered the cornerstone of a free society. What other individual rights and principles of our government are dependent on it?

## EVALUATION

Follow-up should include examining case studies involving free expression. Contemporary case studies, as well as historic ones, such as John Peter Zenger, may be used. Students should examine and discuss the reasoning in these cases to demonstrate what they learned.

## CURRICULUM INTEGRATION

Boundaries of free expression in this lesson focus upon the relationship of persons vis a vis government. But non-governmental groups exert pressure to *silence* unconventional or unpopular expressions of opinion. Teachers of English, art, music, science, mathematics and sociology might work with students on the study of *silencing* in their academic disciplines. The issues Galileo faced are still with us in varying dress.

Students might reflect upon instances of *silencing* by their own peer group and local institutions to uphold local social conventions, mores, and codes.

## SUMMARY OF THE LAW FOR LAWYERS AND TEACHERS

The First Amendment states that "Congress shall make no law...abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." These guarantees have been recognized as protected liberty interests under the concept of due process of law in the Fourteenth Amendment. Since the Fourteenth Amendment is applicable to the states, the incorporation of First Amendment rights into the concept of due process of law makes these rights applicable to the states.

It has been said that the right of free expression is the cornerstone of a free society. This right assures that a continual means of communication will exist between citizens and their government. It also protects the right of citizens to enlighten themselves and remain informed of ideas and events around them. But the right of free expression is not absolute. It is subject to restriction by the government in order to protect the public interest in peace and order. A speaker does not always have the right to say what he wishes, where he wishes, and when he wishes. Justice Holmes' famous statement reflects this notion when he said in *Schenk v. United States*, 249 U.S. 47 (1919), "...free speech would not protect a man in falsely shouting fire in a theater and causing a panic." Thus, it has been recognized that the state's interest in preserving peace and order is superior to an absolute right of expression. It is this balance between the state's interest and the right of expression that is the central focus of this discussion.

### A. SPEECH ADVOCATING UNLAWFUL CONDUCT: THE CONSEQUENCE TEST

One of the central problems regarding free speech is the advocacy of unlawful conduct that may have particularly harmful consequences. Over the years, the Supreme Court has formulated tests to scrutinize regulation of speech advocating unlawful conduct. These tests look at the likely consequences of such speech and the context in which it was made. Many times, speech advocating unlawful conduct was critical of the government during periods of national stress. Other times, it was subversive speech advocating radical change in the government or abolishing the government.

#### 1. The "Clear and Present Danger" Test

During the First World War, federal laws prohibited causing or attempting to cause insubordination in the military service or advocating resistance to the United States government. These laws were designed to forbid conduct harmful to the war effort.

In *Schenk v.United States,* the defendant was convicted of violating these federal laws after circulating leaflets advocating resistance to the draft. In Justice Holmes' opinion, the defendant was properly prosecuted for violating the federal laws because the leaflets had a tendency to include draft resistance and were circulated with that intent. Justice Holmes said, "The question in every case is whether the words are of such a nature as to create a clear and present danger that they will bring about the serious evils Congress has a right to prevent." This was the first statement of the "clear and present danger" test. Thus, in determining whether speech advocating unlawful conduct could be prohibited, the context of the speech was to be viewed and a determination made of the tendency of the words to produce a "clear and present danger" of a substantive evil.

2. The Imminency Requirement

Justice Brandeis added an important element to the "clear and present danger" test in *Whitney v. California,* 274 U.S. 357 (1927). He stated that three elements must be present under the test: (1) the evil must be serious, e.g., the violent overthrow of the government; (2) the evil is likely to occur, e.g., a great potential for rebellion; and (3) the evil must be *imminent*, e.g., an immediate danger of rebellion. The imminency requirement was Justice Brandeis' important addition. He believed that speech advocating a remote danger could not be prohibited, since such a danger would be speculative.

3. Rejection of the Imminency Requirement

However, in *Dennis v. United States,* 341 U.S. 494 (1951), the Court discarded the imminency requirement. The Smith Act, enacted during the Second World War, prohibited advocacy of the violent overthrow of the government and knowingly being a member of an organization advocating violent revolution. Several leaders of the Communist Party were prosecuted under the Act, but during their trial there was little evidence that any of them advocated violent acts specifically planned for a violent revolution. Chief Justice Vinson wrote the Court's opinion stating, "the gravity of the 'evil ' discounted by its improbability, justifies such an invasion of free speech as is necessary to avoid the danger." Therefore, rather than look at the imminency of the evil, the Court looked at the seriousness of evil. If the evil was sufficiently serious, e.g., overthrowing the government, the speech advocating such a serious evil could be prohibited.

4. Return of the Imminency Requirement

However, the Court in later years was uncomfortable with the absence of the imminency requirement. In *Brandenburg v. Ohio,* 395 U.S. 444 (1969), the Court held that speech advocating the need for violent conduct or the abstract teaching thereof could not be prohibited "except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action." The Court construed *Dennis,* and other prior cases as requiring "imminent lawless action." Thus after *Brandenburg,* speech involving the advocacy of unlawful conduct in abstract terms, e.g., speaking to the need for revolution, could not be prohibited. If the speech is made with an intent to produce imminent unlawful action (e.g., "Let's burn down City Hall") and is likely to produce such action (e.g. the mob is carrying torches outside City Hall), then the speech itself could be prohibited.

Although the Court has not agreed on a precise formulation of the "clear and present danger" test, it will utilize this approach when focusing on speech advocating unlawful conduct. The Court will also engage in balancing the public interest against the individual's right of free expression, but the major consequence test is the "clear and present danger" test.

## B. SYMBOLIC EXPRESSION

Under the First Amendment, speech is not only verbal or written communication but may take a variety of forms, including symbols and gestures. For example, the wearing of arm bands as means of protest is a form of symbolic expression. In *Tinker v. Des Moines School District*, 393 U.S. 503 (1969), a case discussed below, the Supreme Court held that symbolic expression "was closely akin to 'pure speech' which, we have repeatedly held, is entitled to comprehensive protection under the First Amendment."

Another example of symbolic expression was in *Cohen v. California*, 403 U.S. 15 (1971). While in a local courthouse, Cohen wore a jacket which bore the words, "F--- the Draft" on the back. He was arrested and convicted of disturbing the peace. The Supreme Court employed a balancing approach between the governmental interest in preserving peace and Cohen's symbolic expression. The Court held that a general fear of a breach of the peace was not sufficient to convict Cohen, since there was no showing that Cohen's conduct was designed instigate a violent confrontation. Looking to the consequences of Cohen's conduct, the Court found that he could not be punished on the vague basis that his conduct was generally offensive.

In *United States v. O'Brien*, 391 U.S. 367 (1968), however, the Court held that the burning of a draft card on the steps of a local courthouse to protest against the draft was not symbolic conduct entitled to First Amendment protection. O'Brien had been convicted of violating a federal law forbidding willful mutilation or destruction of draft cards. The Court found that the statute had nothing to do with speech, but rather related to the government's legitimate purpose or requiring draft registrants to carry their draft cards and not destroy them.

## C. STUDENT EXPRESSION

The beginning point of a discussion of free expression in the schools is the important case of *Tinker v. Des Moines School District*. In this case, the Supreme Court said, "It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." Thus the right of free expression applies in the school setting.

In *Tinker*, public school students active in the anti-war movement decided to wear arm bands to school to protest against the Vietnam War. When the principals of the Des Moines schools heard of the plan, they adopted a policy prohibiting the wearing of arm bands during school hours. Nevertheless, the students wore their arm bands to school and were suspended until they would return to school without their arm bands. In a constitutional challenge to the no-arm band rule, the Court held that the prohibition was aimed at the expression conveyed by the arm bands and thus constituted a restriction on the expression of student views. The Court said there was no evidence that wearing the arm bands disrupted school activities. However, the opinion implied that two limitations on students' First Amendment rights may be allowed: (1) school authorities may restrict expression if they can "forecast substantial disruption of or material interference with school activities; and (2) it was implied that a general prohibition on the wearing of all controversial symbols may be appropriate in explosive situations. It was also implied that the decision had no application to student dress and grooming codes.

In *Guzick v. Drebus*, 431 F.2d 594 (1970), a federal appellate court upheld a long-standing school rule that the wearing of controversial symbols had caused substantial disruption in the past and would have aggravated an already tense situation.

## D. TIME, PLACE AND MANNER: RESTRICTIONS ON EXPRESSION

Implicit in the guarantee of free expression are allowances for reasonable time, place, and manner regulations by the government. A student cannot demand the right to make a speech on "legalizing marijuana use" during English class. A citizen cannot demand a right to have a "morality rally " on Main Street during rush hour. The right of free expression must be balanced against the public interest in peace and the maintenance of order. A neutrality principle is also recognized regarding time, place, and manner regulations, holding that the government must remain neutral toward the content of the speech and apply regulations evenhandedly.

In *Adderly v. Florida*, 385 U.S. 39 (1966), the defendants were convicted of trespass after they refused to comply with a sheriff's order to leave an area outside the local jail where they were conducting a demonstration. The Supreme Court upheld the conviction, stating that the government was allowed to control the use of its property for lawful nondiscriminatory purposes. The Court noted that the defendants were not using a public forum but trespassed into an area not open to the public.

In *Greer v. Spock*, 424 U.S. 828 (1976), the Court ruled that political candidates, here a well-known minor-party advocate against the Vietnam War, were subject to evenly applied military regulations denying political candidates access to military bases since these areas were not considered public forums.

The distinction between regulating the content of expression and regulating the time, place, and manner of expression is sometimes difficult. There is always the danger that government authorities may use time, place, and manner regulations as an excuse to regulate the content of expression. This issue arose in *Feiner v. New York*, 340 U.S. 315 (1951). In speaking to a crowd of black and white people, Feiner urged black people to rise up in arms and fight for equal rights. A member of the crowd told police that if Feiner was not silenced, then he would silence him. After Feiner refused to discontinue his speech, the police arrested him and he was convicted of disorderly conduct. The Supreme Court upheld Feiner's conviction, finding that the police were attempting to prevent disorder. In a dissenting opinion, Justice Black argued that the Court was allowing police censorship of unpopular speakers.

The Court adopted a different approach in *Edwards v. South Carolina*, 372 U.S. 229 (1963). In this case, several black students picketed the state capitol protesting racial discrimination. A large, hostile crowd had gathered and made threatening remarks in demanding that the demonstration end. Nevertheless, the picketers continued their demonstration until the police intervened and arrested them for breach of the peace. The Court reversed the convictions of the demonstrators, distinguishing this case from *Feiner* by reasoning that since the demonstrators were lawfully exercising their First Amendment rights, they were entitled to carry out their demonstration without interference.

## E. THE QUALITATIVE APPROACH: OBSCENITY AND DEFAMATION

Looking into the quality and character of certain forms of expression, the Supreme Court has determined that certain classes of utterances are of such slight social value that their punishment raises no constitutional issue. Such forms of expression are "fighting words," i.e., those which by their very utterance inflict injury or tend to incite an immediate breach of the peace, "the lewd and obscene," e.g., pornography, and the "libelous," e.g., "Bill is a cheating and thieving scoundrel." This qualitative approach considering the social value of expression has led to distinctions between "protected" speech, i.e., speech receiving full First Amendment protection, and "unprotected" speech, i.e., speech receiving no protection.

### 1. Obscenity

Regulation of obscenity is premised on the protection of minors and preventing offensive matter from being displayed to those who do not wish to view it.

The Supreme Court has had difficulty in defining obscenity. However, the Court's definition of obscenity contains the following elements: (1) the average person, applying contemporary standards, would find that the work, taken as a whole, appeals to the prurient interest; (2) the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (3) the work, taken as a whole, lacks serious literary, artistic, political, or scientific value. See *Miller v. California*, 413 U.S. 15 (1973). Potential problems occur in the application of this obscenity concept due to the nebulous meaning of "contemporary community standards," "appeals to the prurient interests," "patently offensive," and "lacks serious literary, artistic, political, or scientific value." Because of the vague character of such terms, problems arise concerning the chilling effect such characterizations can have on protected speech. Standards also may be elusive because they may vary from community to community.

### 2. Defamation

Defamation is generally defined as a statement which injures the reputation of other people or holds them up to public ridicule: it is called libel when the statement is written and slander when spoken. The Supreme Court has included defamation within the categories of expression beyond constitutional protection. Nonetheless, since a distinction must be made between protected expression and what is alleged libelous expression in defamation suits, constitutional issues arise in such suits.

In *New York Times v. Sullivan*, 376 U.S. 254 (1964), the Court ruled that libel suits against public officials would succeed only in cases where the libelous matter was intentionally false (actual malice) or the defendant was recklessly indifferent to its probable falsity. In later cases, the Court said that "public figures" are those who seek publicity or voluntarily place themselves in a position where publicity is expected.

The Court, in *Herbert v. Lando*, 441 U.S. 153 (1979), held that the plaintiff, a public figure who was subjected to criticism in a television news program, could inquire into the program editor's state of mind in order to prove "actual malice" in a defamation case. The Court held that there must be a balancing between this inquiry and protection against any chilling effect on the publication of truthful information.

## CONCLUSION

Whether we look at the consequences or the quality of certain forms of expression, the courts provide vigorous protection for the right of expression. Even though this right is not absolute, it is fundamental to the preservation of a democratic society. The courts remain ready to safeguard this important right even when the message is unpopular, critical of the status quo, or lacking in social merit.

*Reprinted with permission from the author.* (Excerpted from *Liberty - Freedom of Expression,* Law in a Changing Society, State Bar of Texas. Background reading excerpted from *A Resource Guide on Contemporary Legal Issues...for Use in Secondary Education,* Phi Alpha Delta Law Fraternity.) *Edited to fit this format.*

## HANDOUT A

### Defining Proper Boundaries for Free Expression

The First Amendment says, "Congress shall pass no law...abridging the freedom of speech, or of the press; or the right of the people to peaceably assemble, and to petition the Government for a redress of grievances." Does the first Amendment protect someone who:

1. Makes a political speech in support of a candidate for mayor? YES/NO
2. Publicly criticizes the president? YES/NO
3. Makes a pro-Nazi speech outside a Jewish Community Center? YES/NO
4. Uses a sound truck to broadcast his message in a residential area? YES/NO
5. Pickets a grocery store in support of a demand that the store hire more black personnel? YES/NO
6. Wears a green arm band to school to show his support for the Irish Republican Army? YES/NO
7. Telephones the school with a phony bomb threat? YES/NO
8. After hearing that American soldiers would be sent once again to fight in Southeast Asia, burns his draft card? YES/NO
9. Writes a book praising the communists? YES/NO
10. Attends a meeting of the KKK? YES/NO
11. Assembles a group to protest some city policy and in doing so blocks sidewalks? YES/NO
12. Wants to buy an ad in the school newspaper to criticize the school board? YES/NO
13. Speaks to others so they can plan a series of political kidnappings? YES/NO
14. Throws a rock - tied to it is the message "Free all political

prisoners!" - through a window at the county jail? YES/NO

15. Urges an angry crowd to march on City Hall and "Teach those in power a lesson"? YES/NO

16. Falsely shouts "Fire!" in the gym while it's filled with people watching a basketball game? YES/NO

17. Writes a book which is advertised as the "dirtiest book ever written"? YES/NO

18. Makes false claims in an advertisement for a product offered for sale? YES/NO

19. Threatens verbally to kill you? YES/NO

20. Urges the violent overthrow of the government at some future, unspecified time? YES/NO

21. Carves obscene messages in desktops at school? YES/NO

22. Refuses to follow the school dress code? YES/NO

23. Collects signatures on a petition opposing a planned zoning change? YES/NO

24. Holds a parade without a permit? YES/NO

25. Hands out leaflets urging passage of the Equal Rights Amendment to members of the state legislature? YES/NO

26. Embarrasses the governor by telling a large audience about a mistake the governor made? YES/NO

27. Calls for resistance to the military draft during a declared war? YES/NO

28. Damages your reputation by publishing lies about your private life? YES/NO

29. Joins the Communist party of America? YES/NO

30. Has a friendly conversation with a neighbor? YES/NO

# *Gangs? What are You Talking About?*

by the Phi Alpha Delta Public Service Center

## INTRODUCTION

This lesson is designed to be taught by an attorney/law student team and can serve as a partnership model for schools, attorneys and law school students. Using a law-related education approach, students will tackle realistic problems and learn the tough consequences of criminal gang activity. The attorney/law-student teams help students confront the legal issues related to gang activity and guide students toward informed decision-making.

This lesson uses sample penal codes designed to deter criminal gang activity. Ask your cooperating attorney or law student to research your state's relevant penal code and adapt it for use here. Please note that this lesson examines the heavier penalties which the sample penal code establishes and presents the option of asking students to evaluate the effectiveness of this type of legal response to the gang problem.

## OBJECTIVES

As a result of this lesson, students will:

1. Increase their understanding of the law as it relates directly to the issue of gangs.
2. Identify and define gang activity.
3. Practice active listening, paraphrasing, problem-solving and decision-making skills while examining penalties and consequences associated with criminal gang activity.

## KEY CONCEPTS

arson
assault
felony
homicide
manslaughter
robbery
witness/victim intimidation

You may also wish to have students review other relevant legal terminology, such as: defense attorney, prosecutor, judge, jury, and misdemeanor.

## TIME REQUIRED

two class periods

## MATERIALS

Handout A: Sample Penal Code
Handout B: Sample Penal Code Checklist
Handout C: Key Concepts and Vocabulary
Handout D: Case Summary

## PROCEDURES

1. Contact your local bar association or law school to arrange to meet with volunteers interested in working with you on the lesson presentation. As a team, review the lesson and formulate an approach to each of the lesson components.
2. After introducing the attorney(s) and/or law student(s), open the lesson with a question about regulating people's behavior, such as: Why is it necessary to have laws that restrict certain types of behavior?
3. Distribute Handout A, Sample Penal Code (or a similar penal code from your state). Have students read the code aloud and then discuss with students the distinctions and implications of the sample penal code. Outline the different components of the statue by having students

answer the following questions:

  - What criteria must be met in order for law enforcement to consider an individual a gang member?
  - Is it a crime for someone to join a gang?
  - What constitutes a "pattern of criminal activity"?
  - What is the legal definition of a "criminal street gang"?

4. Distribute Handout B, the Sample Penal Code Checklist (or a checklist you have developed which corresponds to your state's penal code). Discuss.
5. Distribute and go over the Key Concepts and Vocabulary list (Handout C) unless this has already been accomplished by the teacher.
6. Distribute Handout D, the case summary of *People v. Gamez.* Have the students count off from 1 to 5. Assemble all those sharing the same number in the same group. Each group should select a group facilitator to ensure all group members have an opportunity to participate, a group recorder to take notes, and a group reporter to report the group's conclusions to the class. Have someone read the case summary aloud. Using Handout B, the Sample Penal Code Checklist, have each group decide whether or not Gamez could be convicted in accordance with the sample penal code. The attorney, lay student(s), and classroom teacher should help the groups in their application of the statue to the facts. After about 15 minutes, have a representative from each group share the group's decision with the entire class. Make sure the following questions are addressed:
    - Assuming Gamez is convicted of a felony, is it safe to conclude that he actively participates in a gang?
    - If he is found to be an active participant in a gang, was his crime committed for the benefit of, at the direction of, or in the association with a criminal street gang?
    - Is Gamez's group a criminal street gang? Is there enough evidence to conclude that one of the gang's primary activities is one or more of the listed crimes? Does the group have a common name or identifying sign? Do members of his gang collectively or individually participate in criminal street gang activity?
    - Is there enough evidence to support a finding that there is a pattern of criminal activity (the attempted commission of two or more of the listed crimes)?
7. Based on the following sample California penal code (or one provided by your attorney/law student), briefly outline the penalties if the conviction occurs in the case of *People v. Gamez*:
    - Imprisonment in the county jail for a period not to exceed one year but not less than 180 days, or in a state prison for one, two or three years.
    - An additional punishment of one, two, or three years if the offense was a felony.
    - Remaining in a prison for a minimum of 15 years if the crime is punishable by life in prison.
8. a. Are gang laws fair (is there a possibility of "guilty by association")?
   b. Are gang laws necessary?
   c. Now that you know the law, are you more or less likely to get involved in a gang?
   d. Do gang laws violate first amendment freedoms of speech and association?
   e. What was your initial reaction to the sample penal code?
   f. Is this an appropriate response to the gang problem? Why or why not?
   g. What impact will this type of law have on gang activity?

## EVALUATION

1. Have students write a poem, rap, short story or make a collage that describes gang activity.
2. Have students collect and discuss news articles about gang activity.
3. Discuss the current local and/or national statistics regarding violence, homicide and death for the student's age group. Does the sample statute and/or your state's existing statute address those issues?
4. Write a poem, rap or short story beginning with the statement: "If I had the power to change things in my community, I would . . ."
5. Have students interview their parents or neighbors with respect to their perceptions of the gang situation and potential legal remedies.
6. Write a newspaper article or editorial outlining the problem from the perspective of the student, law enforcement or the community.

## CURRICULUM INTEGRATION

Gang behavior might be studied in other subjects with the following foci:

| | |
|---|---|
| English: | literature focused upon gangs; |
| Art: | meanings and selection process that gangs use to establish identity and mark out turf (color, designs) |
| Music: | *West Side Story* as a tale of the conflict with two New York street gangs (parallels with *Romeo and Juliet*); and |
| Science: | territoriality in the animal kingdom (and among human beings?). |

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## HANDOUT A

### Sample Penal Code

b) (1) Except as noted in paragraph (2), any person who is convicted of a felony which is committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one, two, or three years at that court's discretion. However, if the underlying felony is committed on the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school, during hours in which the facility is open for classes or school related programs or when minors are using the facility, the additional term shall be two, three, or four years, at the court's discretion. The court shall order the imposition of the middle term of the sentence enhancement unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its choice of sentence enhancements on the record at the time of the sentencing.

(2) Any person who violates this subdivision in the commission of a felony punishable by imprisonment in the state prison for life, shall not be paroled until a minimum of 15 calendar years have been served.

e) As used in this chapter, "pattern of criminal gang activity" means the commission, attempted commission, or solicitation of two or more of the following offenses, provided at least one of those offenses occurred after the effective date of this chapter and the last of those offenses occurred within three years after a prior offense, and the offenses are committed on separate occasions, or by two or more persons:

1) Assault with a deadly weapon or by means of force likely to produce great bodily injury as defined in §245.
2) Robbery, as defined in Chapter 4 (commencing with §211) of Title 8 Part 1.
3) Unlawful homicide or manslaughter, as defined in Chapter 1 (commencing with §1877) of Title 8 Part 1.
4) The sale, procession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in §§11054, 11055, 11056, 11057, and 11058 of the Health and Safety Code.
5) Shooting at an inhabited dwelling or occupied motor vehicle as defined in §246.

6) Arson, as defined in Chapter 1 (commencing with ∮450) of Title 13.
7) The intimidation of witnesses and victims, as defined in ∮136.1.
8) Grand theft of any vehicle, trailer, or vessel as described in ∮487h.

f) As used in this chapter, "criminal street gang" means any ongoing organization, association, or any group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in paragraphs (1) to (7), inclusive, of subdivisions (e), which has a common name or common identifying sign or symbol, whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

## HANDOUT B

### Checklist for Sample Penal Code

__ I. The charged crime was committed for the benefit of, at the direction of, or in association with any "Criminal Street Gang."

__ II. Definition of a "Criminal Street Gang":

  __ A. Any ongoing organization, association, or group of three or more persons, whether formal or informal; *and*

  __ B. Common name or common identifying sign or symbol; *and*

  __ C. One of its primary activities is the commission of *one or more* of the following crimes:

    __ 1. Assault with a deadly weapon or by means of force likely to produce great bodily injury;

    __ 2. Robbery;

    __ 3. Unlawful homicide or manslaughter;

    __ 4. Sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances;

    __ 5. Shooting at an inhabited dwelling or occupied motor vehicle;

    __ 6. Arson;

    __ 7. Witness or victim intimidation;

    __ 8. Grand theft of any vehicle, trailer, or vessel; *and*

  __ D. Members individually or collectively engage in or have engaged in a pattern of criminal activity. A "pattern of criminal activity" involves:

    __ 1. Commission, attempted commission or solicitation of *two or more* of the eight crimes listed above;

    __ 2. With one or more of the offences occurring after October 1, 1988; *and*

    __ 3. The last of those offenses occurred within three years after the prior offense; *and*

    __ 4. The offenses were committed on separate occasions or by two or more persons.

# HANDOUT C

## Key Concepts and Vocabulary

**arson**
the malicious and unlawful burning of a building

**assault**
an intentional threat, show of force, or movement that could reasonably make a person feel in danger of harmful physical contact

**felony**
a serious crime; a crime with a sentence of one year or more in prison

**homicide**
killing another person (not necessarily a crime)

**manslaughter**
an unlawful killing without malice; less serious than murder

**robbery**
the illegal taking of property from the person of another by using force or the threat of force

**witness/victim intimidation**
actions taken to dissuade or prevent a witness/victim from testifying

# HANDOUT D

## Case Summary

CASE
*People v. Gamez* (with slight variations for teaching purposes)

FACTS
On August 31, 1989, Yvette Costa and her sister Rachel invited Frankie and Guillermo, a member of the "Highland Street" gang who went by the nickname "Rambo", over for dinner. Guillermo parked his car in front of their house while he was there for dinner. Police believed that he had recently been involved in a shooting directed at a rival gang, the "Southside F-Troop".

Later that evening, Yvette and Rachel were standing outside with their friends Loreno and Norma Quinta, when a black Nissan truck came around the corner with its lights off. As it passed by the house, a person in the passenger seat pointed a gun out of the window and fired five to ten shots. Yvette screamed that the people in the truck were from the "South", meaning the Southside. Loreno was shot in the back but survived. The other girls were not hurt.

Yvette identified the defendant, Gamez, as the shooter to investigating officers and at the trial. She knew him by his gang nickname of "Hydro". Norma Quinta picked the defendant out of a photographic lineup. The defendant's residence in Anaheim was searched pursuant to warrant and a black Nissan truck was parked in the driveway. A box of bullets, paper, books, a plaque, T-shirt, and a traffic ticket was seized. The plaque was addressed to the defendant's brother Jerry, a known Southside gang member, and had a reference to the Southside gang on it. The T-shirt had "Southside" printed on it. The traffic ticket was issued to the defendant while he had been driving the truck. The books and papers were from the defendant's school and had writing on them referring to the Southside gang and "Hydro".

At trial, a police officer who was an expert on gangs in the area of the crime, testified that the shooting was a "payback" for a prior shooting by the Highland Street gang against the Southside. Pictures of the defendant with other Southside members "throwing" the gang's hand signs were introduced at the trial. One officer testified that several other Southside members had been arrested a year earlier for stealing a car. Based on his own personal knowledge of past crimes that Southside gang members have committed, conversations with other offices and statements by gang members, one officer gave his opinion that Southside was a criminal street gang engaged in a pattern of criminal activity.

DIRECTIONS

You are the judge. Decide if the sample penal code applies to Mr. Gamez. Assuming Mr. Gamez is convicted for the shooting and injury caused to Loreno, should Mr. Gamez's punishment be increased because of the penal code regarding gang activity? Is this fair?

# *Gideon v. Wainwright: A Case Study*

by John Burton, Pinellas Park High School, Pinellas Park, FL

## INTRODUCTION

This lesson is an analysis of the *Gideon v. Wainright* case. It is a landmark case which arose in Florida, extending the right to have a lawyer in all criminal cases which opened public defenders to handling more than capital offense charges. The process of analysis is, of course, useful in the analysis of any case and thus, students should focus upon the mastery of this process and its key questions.

## OBJECTIVES

As a result of this lesson, the student will:

1. Develop the ability to analyze an actual law case.
2. Understand the importance of a poor defendant having a lawyer provided if he/she can not afford one.
3. Appreciate the role of the Supreme Court in redefining "due process of law."

## TIME REQUIRED

three class periods

## MATERIALS

Handout A: *Gideon v. Wainright*

## PROCEDURES

1. Hand out duplicated copies of a case study: Handout A, *Gideon v. Wainwright*.
2. Discussion question after reading the first section: What things did Gideon do that most people expect only a lawyer to do? For an answer, refer to "Clarifying the Issue."

    Clarifying the Issue

    1. How does the Sixth Amendment apply to Gideon's case?
       *Answer*: In part it reads, "In all criminal prosecutions, the accused shall have assistance of counsel for his defense."
    2. Is any other amendment involved?
       *Answer*: The Fourteenth Amendment obliges the States to provide the "fundamental and essential rights to a fair trial."
    3. What could a lawyer have done that Gideon could not have done?
        - a. A lawyer knows the law and rules of procedure.
        - b. A lawyer knows how to ask questions of the witnesses.
        - c. A lawyer knows how to present evidence.
        - d. A lawyer knows how to challenge the state attorney.
        - e. A lawyer knows how to persuade the jury.

3. Discussion question after reading section two: What constitutional questions are involved in the case? Refer to "Clarifying the Issue."

    1. How had the U.S. Supreme Court ruled on right to counsel before the Gideon case?
       *Answer*: In the decision in 1942, *Betts v. Brady*, the court stated that the 14th Amendment did not require the states to appoint counsel for poor defendants, except where special circumstances existed, such as illiteracy, ignorance, youth, or mental illness on the part of the defendant or where the complexity of the

charge against or the behavior of the prosecutor created special hazards.

  2. If Gideon wins the case, will he be set free?
     *Answer*: No. The person who appeals a case waives his right under the double jeopardy clause of the Fifth Amendment.

4. Summarizing questions: If you were a member of the Supreme Court, how would you have voted? Answers will vary.
5. Suggestion for a written assignment. Agree or disagree with this statement: To provide equal justice for everyone, all criminal cases should be defended by public defenders and private lawyers should be eliminated.
6. What proceedings in trials did this case change?
   The Gideon case applied only to felonies. The result was that the poorest prisoners could appeal to higher courts. The basic change in the doctrine of due process procedures had an interesting affect on prisoners then serving sentences for felonies where no lawyer had defended them. In Florida, 976 prisoners were released outright when authorities felt that they could not be adequately be retried. In the state of Florida each of the 20 judicial circuits has a public defender office.

## EVALUATION

Teacher can observe students during the classroom application of the case analysis process to assess learning. In addition, the teacher might provide another Court case for students to do an independent case analysis, using the Gideon model.

## CURRICULUM INTEGRATION

Teachers might teach students analytical models used in their diverse fields of knowledge:

| | |
|---|---|
| Science: | the scientific method; |
| English: | a writing process model; |
| Art: | a process for the analysis of paintings; |
| Mathematics: | a process for understanding a "word problem" prior to its solution. |

*Reprinted from Law Studies for Senior High School, Pinellas County Schools.*

# HANDOUT A

## *Gideon v. Wainwright*

### THE FACTS

One morning Clarence Gideon was sitting in a downtown bar in Panama City, Florida. He had been drinking all night, as he often did. Clarence was a fifty-one year-old drifter who had been in and out of prisons much of his life. He had never been what one might call a professional criminal or a man of violence, but he had served time for four felonies of burglary and theft.

In another part of town, a poolroom had been burglarized during the previous night. Henry Cook, another man who had been in trouble with the law from time to time, claimed that he saw Gideon leaving the poolroom early in the morning. The Florida police arrested Gideon and he was charged and arraigned before the proper officials. In a short time he was brought to trial.

### THE TRIAL

"I know I didn't rob that pool hall," Gideon said at the trial. He asked Judge McCrary of the Circuit of Bay County, Florida to appoint a lawyer for him. The judge said that he could have a lawyer if he wanted to pay for one. The judge told him that the State of Florida provided a free lawyer only in murder cases.

The Supreme Court had held in 1942, *Betts v. Brady*, that due process of law did not require that an indigent be furnished with a lawyer in every case.

Gideon attempted to be his own lawyer. But he was not trained in the law. He made an opening statement to the jury. He told his story as well as he could, but he did not testify himself. (When asked later why he did not, he replied that he did not think the jury would believe the story of a four-time loser.) He cross-examined the state's witnesses, and presented his own witnesses. Nevertheless, he was found guilty and sentenced to five years in Raiford Prison.

### SECTION II: THE APPEALS

In October, 1961, Clarence Gideon filed a *habeas corpus* petition in the Florida Supreme Court. He claimed that the state's refusal to appoint him a lawyer denied him rights "guaranteed by the Constitution and the Bill of Rights by the U.S. Government." The appeal, No. 890, Misc. *Gideon v. Cochran*, Correction Director, was denied.

Gideon did not give up. He went to the prison library and found out how to write a proper petition to the U.S. Supreme Court. He asked for a *writ of certiorari* (which can call up from lower courts the records of a trial). The letter was handwritten in pencil on lined paper. Clarence used old fashioned legal phrases: "Comes now the petitioner, Clarence Earl Gideon, in proper person, and appearing as his own counsel."

In his letter to the court he told his story. Among other things he said, in his plain unschooled way,

> "I always believed that the primary reason of trial in a court of law was to reach the truth. My trial was far from the truth. One day when I was being arraigned, I seen two trials of two different men tried without attorneys. One hour from the time they started they had two juries out, then 15 minutes later they were found guilty and sentenced. Is this a fair trial?
>
> There was not a crime committed in my case and I don't feel like I had a fair trial. If I had an attorney he could brought out all of these things in my trial. When I was arrested I was put in solitary confinement and I was not allowed the papers, not to use the telephone or to write to everyone I should. I did get speedy arraignment and preliminary trial. At my arraignment in Circuit Court I was allowed more time to try and obtain a attorney which I could not do."

The Supreme Court allows a pauper to file just one copy of a petition, instead of the forty usually required. Gideon's *In forma pauperis* papers were stamped by the clerk, *Number 890 Miscellaneous*. More than 90% of the cases filed in the Supreme Court are petitions for *certiorari*. This writ comes from the Latin, *certiorari volumus*, "we wish to be informed." Gideon's petition was one of the 3% which are granted of those submitted. A certified record of the case was sent for from the Florida Circuit Court.

When Gideon was notified that the Supreme Court might hear his petition, he wrote a four-page letter to them from his prison cell. He argued that "a citizen cannot get a equal and fair trial without legal counsel.... If the petitioner would of had attorney there would not of been allowed such things as hearsay, perjury or Bill of attainer against him....It makes no difference how old I am or what color I am or what church I belong too if any. The question is I did not get a fair trial. The question is very simple. I requested the court to appoint me attorney and the court refused."

## SECTION III: DECISION

The Supreme Court appointed Abe Fortas, an eminent Washington lawyer to act as Gideon's counselor. It is a great honor to represent a poor person before the Court, but there is no fee for the service. Mr. Fortas asked the Justices to reinterpret the Constitution:

> "I think *Betts v. Brady* was wrong when it was decided in 1942. I think time has made that clear. And I think time has now made it possible for the correct rule, the civilized rule, the rule of American Constitutionalism, the rule of due process to be stated by this Court with limited disturbance to the states."

On March 18, 1963, the Supreme Court ruled unanimously in Gideon's favor. It said that the states must appoint counsel for poor criminal defendants. In August, 1963, a new trial was held in Panama City, Florida.

Gideon's lawyer in the case, Fred Turner, knew Henry Cook, the so-called eyewitness to the poolroom break-in. When he put Cook on the witness stand it was readily apparent to the jury that he had lied and his credibility and character were not reliable.

Turner, a skilled criminal lawyer, got Cook to confess that he was on probation. He then addressed the jury, "This probationer had been out at a dance drinking beer. He doesn't call the police when he supposedly sees Gideon inside the poolroom. He just walks to the corner and walks back" (as Cook testified). Cook had been let out, he said, by some buddies after attending a dance in Apalachicola, sixty miles away.

"What happened to the beer and wine and the Cokes? I'll tell you," Turner continued. "It left here in that old model Chevrolet. The beer ran out at midnight in Apalachicola...Why was Cook walking back and forth? I'll give you the explanation: He was the lookout."

The jury deliberated for about an hour and returned the verdict, NOT GUILTY. Henry Cook was not tried for the crime because the statute of limitations had run out.

# *He Said/She Said: A Search for the Truth*

by Lynda Dunnigan, Williamsburg-James City County Schools, Williamsburg, VA

## INTRODUCTION

Middle school students often find themselves in situations where peer pressure and group identity influence their decisions more than the truth. Circumstantial evidence, personal prejudices, and hearsay become the basis for judgement rather than the actual analysis of the facts. These situations can be related to the process of gathering and presenting evidence in the legal system, and the impact of bias and prejudice in distinguishing between the facts (i.e., truth) of an issue and opinions regarding the issue.

## OBJECTIVES

As a result of this lesson students will be able to:

1. Differentiate between facts and opinions.
2. Learn to analyze information.
3. Examine issues of personal prejudice and bias.
4. Apply their knowledge of rules and their enforcement to the legal system.
5. Learn how to brief a case.

## TIME REQUIRED

four class periods

## MATERIALS

Handout A: Fact Sheet
Handout B: Scenario
Handout C: Case Study Sheet

## PROCEDURES:

1. Students are asked, "How many of you have become involved in a dispute with your friends as a result of something you have been told, not something you saw or heard?" (Allow five minutes for discussion and responses.)

2. Next say: "In a court of law, before a judge or jury rules on a case, **evidence** (factual information used to determine the truth of an allegation) is presented in relation to the alleged violation of a specific law. The jury must weigh the evidence in a similar manner. Personal feelings must not enter into a decision. Rather, the jury is instructed by the judge to weigh the evidence in light of a specific law."

3. Ask, "How many of you are objective, carefully weigh all of the facts, and leave out your personal feelings before taking a side in a dispute among your friends? Today, we are going to simulate a situation to show the difficulty in determining the truth."

4. Ask/select two student volunteers to leave the room. Tell them that shortly, they will be given information and told to what to do.

5. Once the students have left the classroom, distribute Handout A and say, "We are going to conduct an experiment that involves carefully listening to and recording of facts. As I read the

following scenario to you, record all facts you hear in Column I, Facts.

6. Select one student (student 1) and say the following, "I am going to ask you to listen carefully and to mentally record the facts of a scenario I am about to read. When I finish reading, I am going to ask you to repeat the facts as you heard them. I want the remainder of the class to record your responses in the second column, marked "Hearsay ". I will then ask you to go into the hall and relay the information to one of the students in the hall. (NOTE: this becomes Student 2.) Tell Student 1 not to let Student 3 overhear what you say. Tell that person that they will be given information when Student 2 comes back into the hall. When you have relayed the information to Student 2, you and Student 2 should return to class. Answer any questions about instructions.

7. Read the Scenario.

8. Allow Student 1 to tell all pertinent facts and then leave the room to relay information as described in step 6 above.

9. While Student 1 is in the hall, say to the rest of the class. "When Student 2 comes into the room, I will ask him/her to tell me what he/she was told by student 1. You should record what he/she says in the "Hearsay 2" column. You will repeat this process when Student 3 returns to the room, recording the information, in "Hearsay 3" column.

10. Call for Student 2. Ask Student 2 to repeat what he was told, then instruct Student 2 to go into the hall and relay the information to Student 3. After relaying the information, both students should return to the class.

11. Ask Student 3 to repeat the information given by Student 2.

12. Once Student 3 has completed his/her "version" of the facts, ask the class to compare what they heard with what was said by each of the "witnesses". Record all responses on the board/overhead.

13. DEBRIEF by asking, "What has happened to the facts? How much information was lost or confused between student "witnesses" 1, 2, and 3?" Allow for student responses and summarize. Assign homework: Analyze a personal situation in which the reporting of facts of a situation, either by you or someone else, varied, and speculate why the reporting of the "facts" differed.

DAY 2

14. Ask students to take out their homework assignments and conduct a short discussion on how personal bias impacted their personal "he said/she said" situation. Collect homework.

15. Distribute copies of the scenario (Handout B) and ask students to take out their notes from DAY 1. Allow ten minutes for students to read and annotate the scenario.

16. Ask students to compare their original facts with the facts in the scenario, adding missed information and correcting any misinformation on their FACTS/HEARSAY handout.

17. Divide the class into groups of 4 or 5 students and distribute copies of Student Handout 3, POINT OF VIEW. Project a copy of the sheet on an overhead.

18. Conduct a full class discussion on how different perspectives of the situation might lead different individuals to interpret the facts in a variety of ways.

19. Select any one of the individuals named in the scenario, and through discussion, model on the overhead/board the development of a fact sheet from that person's point of view.

20. Homework: Students will develop fact sheets from the scenario for these individuals:
    A) Someone waiting for the bus who overheard Mary and Yolanda's conversation on Thursday, as described in the scenario.
    B) Someone who was in the locker area who overheard Mary and Yolanda's morning conversation, as described in the scenario.
    C) Someone who was present and overheard Mary and Yolanda's conversation on Friday before getting on the bus.
    D) Someone who was present in the cafeteria and overheard Mary and Yolanda talking, as described in the scenario.
    E) Someone who was present at the bus on Thursday and Friday, in the locker area, and the cafeteria.
    F) A friend of Yolanda's who was not in any of the above-mentioned places, but was given information by Yolanda.
    G) Mary's friend who was not in any of the places described in A-E, but was given information by Mary.
    H) Someone present at all of the places described in A-E above. Remind students that only information stated in the scenario may be used.

DAY 3

21. Ask students to take out homework assignments, DEBRIEF by conducting a short discussion on how point of view varies, based on:
    A. what you actually saw or heard.
    B. your personal relationship/involvement with the situation/individual.

22. Divide the class into three groups: Yolanda and witnesses, Mary and witnesses, the Principal. Next, say, "Suppose the Principal has heard all the facts and has suspended both girls." What guided the Principal's decision?" Allow student responses. If no one mentions the school's policy regarding fighting, ask, "Is there any written policy regarding fighting? What does it say?" (The policy is listed on Handout B, SCENARIO.)

    Next say, "Yolanda and her parents do not agree with the Principal's ruling. They think that Mary was at fault, and if the paper had been returned, the 'disagreement' would never have gotten out of hand. They want a hearing by the Suspension Appeal Committee to review the Principal's decision."

23. Distribute Handout C, CASE STUDY SHEET and say to the class, "You have gathered the facts relating to the dispute between Yolanda and Mary and ruled out personal opinions and bias. Today you are going to put your information on a case study form. This is called briefing

a case. Write all the facts relating to the Mary/Yolanda dispute under the Facts heading on your Case Study handout".

Next say, " In our legal system, the consequences for violating a law are spelled out. It is the duty of the judge or jury to rule on whether or not, based on the facts presented, the law has been violated. If the suspect is found guilty, then he/she must face the consequences for violating the law - this is called sentencing. In Mary and Yolanda's case, a school rule against fighting was violated. What are the possible consequences of fighting at school? If you are not sure, check your scenario sheet. Look at the Issues section of your case study form. What happens if someone disagrees with the decision of guilt or innocence? Can that person appeal the original decision? Yolanda and her parents wish to appeal the decision to the Suspension Appeals Committee. In our legal system, a case can be appealed to a higher court. That body can uphold (agree) with the lower court ruling, or it can over-rule and strike down the decision.

Note that the issue has been stated in the form of a question indicating Yolanda's rights and the rule in question. Use the remainder of the class time to write your opinion (in the space marked YOUR OPINION) and the reasons (ARGUMENTS) based on the facts of the case and the law. Remember, your job is to clearly and concisely state the facts of the case and to present arguments supporting your decision, much like a lawyer would for a "client". If you do not finish in class, complete the assignment tonight.

24. Next say, "Tomorrow, we will have Mary and Yolanda and their witnesses present their case before the Principal and see what his/her decision is."

Homework assignment: Tonight, you are to complete your arguments. Tomorrow, we will conduct a hearing and get the Principal's decision.

DAY 4

25. Mary and Yolanda and their witnesses use facts from their Case Study Sheet to present their "case" to the Principal. Say to the class, "Today, the Principal will listen to Mary and Yolanda and determine the consequences for engaging in a fight."

26. Write/project the following rules for the hearing on the board/overhead:
Each student may speak for two minutes to present his/her case.
Each student may call 2 witnesses to speak on his/her behalf.
Each witness's testimony may last one minute.
The Principal may question the disputants and the witnesses.

27. The Principal's choices of actions are as follows:
    (a) Mary, 3 days out-of-school suspension for starting a fight; Yolanda, one day out of school suspension for fighting.
    (b) Yolanda, 3 days out-of-school suspension for starting a fight; Mary, one day out of school suspension for fighting.
    (c) Both girls, 3 days out-of-school suspension for fighting.
    (d) Both girls, 1 day out-of-school suspension.
    (e) Both girls, 1 day in-school suspension, and referred to mediation to resolve the issue of the paper.

28. Conduct the Role Play (15-20 min.) Allow Principal 2 minutes to deliberate and write his/her decision and then read the decision to the class.

29. VOTE WITH YOUR FEET.
Mark signs in three places in the room (Agree, Disagree, Undecided) and ask students to take a stand on the Principal's decision by moving to one of the areas. Ask students why they took that particular position.

30. Ten minutes before the end of class, summarize elements that influenced the Principal's decision. Use these questions to summarize:
    (a) What must guide the Principal's ruling on the situation? How can the Principal remain objective?
    (b) Why is it important to separate facts from opinions when serving as a witness?
    (c) Why is a person who saw an event a more reliable witness than someone who hears about the situation second-hand?
    (d) Why is it important to have all the facts before taking sides?
    (e) How is the Principal's decision like a judge's ruling?

## EVALUATION

a. Make a comparison chart (similarities/differences) between school rules and laws and the role of a Principal and a Judge.

b. Students could develop a series of hypothetical "cases" based on factual infractions and role play disciplinary hearings on other school rules.

## CURRICULUM INTEGRATION

An attorney might be invited to class to discuss simplified rules of evidence in any search for judgment in courtrooms. Teachers in English, mathematics, science, and other disciplines should provide study opportunities focused upon the ways their disciplines determine appropriate and relevant evidence. What are the similarities and differences among these routes to the truth?

In a Home Economics class, students might pass oral directions for a particular recipe to the last student who finally actually makes it.

*This lesson distributed through the Warren E. Burger National Repository for Educational Materials on Citizenship and the Constitution Center for Research and Development in Law-Related Education. 1-800-437-1054. Lesson Number: 41599A.*

## HANDOUT A

### Facts and Hearsay

Record the facts as you hear them in column 1, FACTS. Use the remaining three columns to record the Hearsay as reported by Students 1, 2, and 3.

| FACTS | HEARSAY 1 | HEARSAY 2 | HEARSAY 3 |
|---|---|---|---|
| ____________ | ____________ | ____________ | ____________ |
| ____________ | ____________ | ____________ | ____________ |
| ____________ | ____________ | ____________ | ____________ |
| ____________ | ____________ | ____________ | ____________ |
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| ____________ | ____________ | ____________ | ____________ |
| ____________ | ____________ | ____________ | ____________ |

# HANDOUT B

## Scenario - "He Said/She Said"

Read and annotate the following scenario:

Mary and Yolanda, seventh graders, have never been close friends although they have gone to school together for the past five years. On Thursday, as they were waiting for their buses after school, Mary asked to see Yolanda's history report. Yolanda's bus arrived before Mary finished reading the paper. When Yolanda asked Mary to give back the paper, Mary asked if she could keep it until the next day. Before a discussion could take place, the bus was ready to leave, so Yolanda begrudgingly said yes as the bus pulled away.

Friday morning, Yolanda waited by Mary's locker to retrieve her paper. Mary's bus was late and there were only five minutes left before the first period bell. When Mary came running to her locker, Yolanda asked, "Where's my paper?" Hurriedly, Mary responded, "I don't have time to talk to you right now. I am running late for first period, and we have a test! I'll see you later." Sam, Ray, Curtis, and Dana were standing close to the lockers when the conversation between Yolanda and Mary occurred. Mary hastily took books from her locker, placed them in her back pack, and turning, threw the pack over her shoulder. The back pack hit Yolanda, throwing her off balance and into Ray, who yelled, "Hey, why don't you watch where you're going?" Yolanda responded, "Don't get on *me*! It's that girl (pointing to Mary's retreating figure) you need to talk to." As Mary turned to see what was going on, Yolanda shouted, "I am going to come looking for you later today, you hear?"

Yolanda then turned and walked down the hall, mumbling to herself, "That girl gets on my nerves, this time she has gone too far. When I see her we're going to have it out!"

Later, at lunch, Yolanda and Mary were overheard arguing. Mary said in a loud voice, "Back off, girl, I told you I would give it [the history report] back. I already said I'm sorry I forgot it this morning, I'll bring it to you on Monday." To which Yolanda replied, "Now you really are getting on my nerves." Putting her hands on her hips, Yolanda said, "Don't mess with me. Just give me my paper; you'd better have it on Monday, or else!"

"I'll have it on Monday, just like I said," Mary responded as she headed off to class.

As the two girls waited for the bus after school, Yolanda approached Mary who said, "Now don't you start bugging me again; I told you I would give you the paper on Monday," to which Yolanda replied, pointing a finger at Mary, "You'd better, girl, or else you and me are going to have more than words!"

On Monday, Yolanda and Mary were sent to the Principal's office for fighting in the locker area before school. Neither girl was talking, but Yolanda was clutching a badly crumpled and stained paper that appeared to be a history report.

The student handbook specifically states that"... anyone caught fighting will be suspended for up to 5 days, may be referred for mediation, and, depending on the nature of previous offenses, may face expulsion."

## HANDOUT C

### Case Study Sheet

Use this sheet to record the facts and the decision of the principal's hearing.

YOUR NAME: ______________________________

CASE NAME: Mary/Yolanda dispute

FACTS: ______________________________

ISSUE/S: ______________________________

(State as a question: Were Yolanda's rights violated when she was found guilty of violating the school rule (policy) regarding fighting and suspended?)

ARGUMENTS: ______________________________

YOUR DECISION: ______________________________

PRINCIPAL'S DECISION: ______________________________

# *Human Nature and Democracy*

by William R. Marcy, Danbury High School, Danbury, CT

## INTRODUCTION

This lesson provides a philosophical inquiry into both human nature and the ways to perceive and "control" behavior. Students are encouraged not to form conclusions about human nature but rather to understand that societies organize their political systems according to beliefs about human nature.

## OBJECTIVES

At the end of the lesson, students should be able to:

1. Identify, analyze and evaluate at least three ways to perceive human nature.
2. Investigate and evaluate proposals of authority and governmental organizations which vary with a society's perception of human nature.
3. Understand that human nature is complex and there is no "simple" answer to evaluating human values and social institutions.

## TIME REQUIRED

two class periods

## MATERIALS

Handout A: What is the Nature of Human Beings? -- An Inquiry
Handout B: What is the Nature of Human Beings? -- Propositions

## PROCEDURES

This lesson uses a position paper and class debate.

1. Distribute Handout A, "What is the Nature of Human Beings? - An Inquiry." To focus their arguments, they should understand the definitions used for *good*, *evil* and *neutral*. After the class has an understanding of the three positions, they should write a position paper explaining their reasoned opinions on the nature of humans. They should use historical evidence, ideas, and specific personal experiences in the papers.
2. Divide the class into three groups. Each should represent one of the positions. A class debate will enhance understanding of each position.
3. Distribute Handout B, the "Propositions." Have students confirm, reject or synthesize the proposals concerning authority, government and human nature. Discuss the values and beliefs necessary for a stable and prosperous democracy. How does the society and government of the United States conform to student queries and propositions? Do other societies share similar beliefs and structures? Why? Why not?

## EVALUATION

Use the three queries in Handout A and ask students to write a paragraph on each "query" which addresses the implications for law and law enforcement in society.

## CURRICULUM INTEGRATION

English teachers might suggest and/or teach three pieces of literature involving each of the three conceptions of human nature.

Science teachers might discuss scientists' assumptions about the nature of human beings in their research.

Students might survey a sample of religious leaders in the community on conceptions of human nature and social control and report to the class on their findings.

*Reprinted from Update on Law-Related Education, Fall 1990, pp. 33-34, American Bar Association. Edited to fit this format.*

## HANDOUT A

### What is the Nature of Human Beings? -- An Inquiry

*Question: Are people born good, evil or neutral?*

Good people are those who have an unselfish desire to cooperate for the benefit of the common welfare.

Evil people are those who sacrifice the common welfare to greed and personal desire.

Neutral people are those who are born without instinctive behavior. They learn exclusively from their environment; their actions are good or evil as their experiences dictate.

Assumption: By nature, humans are rational and social beings. The members of each society determine the form and function of their authority and government by common beliefs of human nature. A society's view of human nature determines the use and abuse of power and the quality of life.

QUERY 1

Do people have a natural tendency to be good? If given a choice between being selfish or sharing the necessities of life with someone, they would share. They would respect the rights of others and would view survival as a cooperative effort rather than an individual one. The Golden Rule would apply: "Treat others in a way which you would like to be treated." Peace and harmony are the keys to success.

QUERY 2

Are people naturally born with the instinct for self-preservation that is so strong that they put their personal interest over the interest of the group? Life can only be maintained effectively by personal interest and gratification. To prosper, a person must take something before some other greedy person snatches it from him. If given a choice of being self-serving or sharing the necessities of life, people do not share before their own needs are met. People will sacrifice the rights of others for their own personal well-being. Survival is seen as an individual effort rather than a cooperative one: "survival of the fittest" is the reality of life.

QUERY 3

Are people born with a "blank slate", and learn to be good or evil according to the dictates of their environment? Environmental factors, the actions of others and education determine human nature. If people are born in a negative environment among greedy people and with no opportunity for enlightened education, then they will become self-serving and evil. If people are born in a positive environment, among caring people, and are given an education that promotes an enlightened philosophy, then they will act accordingly. People do not have a tendency toward good or evil. People are born neutral and inherit no behavior from their parents or ancestors.

## HANDOUT B

### What is the Nature of Human Beings? -- Propositions

PROPOSITION 1

If humans are born good, then the governing authority can be less strict and exercise less control over individual behavior. The survival of society and its members is secure due to the common interest of the people. The organization of government is not rigidly structured. Leaders can trust people to run their own lives in cooperation with others for the benefit of all. A utopian society could be planned and happiness achieved through the good intentions of the people.

PROPOSITION 2

If people are born evil, then the governing authority must be strict to control the actions of others. Authority must permeate every aspect of society to force compliance with laws. Individual prosperity and the survival of the society depends upon the effectiveness of governing leaders. Since people cannot be trusted to cooperate for the benefit of all, they must be made to conform to government regulations. There need to be many laws to control the actions of the people; penalties must be harsh to deter harmful behavior. The prosperity of society depends upon the strength and effectiveness of the government to lead and control the population.

PROPOSITION 3

If people behave according to their experiences and learn from their environment, then the ruling authority and its organization depend upon common traditions and customs to control the behavior of people. Education is encouraged because people are not born good; rather, they learn to be good. Laws and punishments encourage people to understand and appreciate the implications of their actions on the good of society. Government authority and its organizations rely on common values founded on long-established customs and traditions to maintain order and prosperity. Laws can be either strict or lenient depending upon the physical and social environment, accepted traditions and common values and experiences. The good life is gained through education and truth discovered through reason.

# An Introduction to Law

by Dave Snook, McNary High School, Salem, OR

## INTRODUCTION

This activity is designed to introduce the wide range of effects law has on citizens daily. This lesson also introduces the types of law dealt with in this section of the course. Though it is meant as an introductory lesson, it can easily be expanded.

## OBJECTIVES

As a result of this lesson students will be able to:

1. Identify examples of Criminal Law, Civil Law, Consumer Law, and Family Law.
2. Give examples of how laws affect citizens on a daily basis.
3. Understand that laws not only limit citizens but offer protection as well.
4. Give examples of local, state, federal and international laws.

## TIME REQUIRED

one to two class periods

## MATERIALS

Copies of current daily newspaper (local preferred)

## PROCEDURES

Students may work cooperatively or in small groups for this activity. Ability, resources, and time will determine this.

1. Write on the chalkboard or overhead the following terms: Criminal, Civil, Constitutional, Consumer, Family, Juvenile, State, Federal, Local, and International Law.

2. Lead the students in a discussion of the above types of law and have them take notes for the next activity.

3. Give each student or group a copy of a daily newspaper. All students should have the same edition.

4. Assign each student or small group a page of that newspaper. They are to read an article from that page and identify how law is associated with the article and what types of law the article is dealing with.

5. Give each student or group about 5 to 10 minutes to read the articles and to distinguish the type of law which applies to the articles and how citizens are most affected.

6. At this time, have each student or spokesperson from each group present to the class a summary of his/her article and the types and effects of law. Since each student has a newspaper, he/she can examine the page being discussed. Have the class comment on each article and add their thoughts.

7. Assign a full page of advertising to a student and see if he/she protests that no articles on law

exist. Oftentimes small print about interest, payments, or other product limitations are present and provide great discussion about consumer law.

8. If one or more types of law are not discussed in the activity, you may set up a contest to see which group can first find an article with that type of law.

## EVALUATION

You may have students write an example of each of the types of law discussed in class. You could also provide them with a given set of articles and have them identify the types of law.

## CURRICULUM INTEGRATION

(a) Write a persuasive letter to the editor of the local newspaper arguing for additional coverage of law issues in your community or a complimentary letter thanking him or her for the quality of law coverage in his or her newspaper. Students should draw upon their knowledge of the types of law from this session.

(b) Write a story in a minimum of 400 words which contains elements from at least five of the following:

- state law
- federal law
- local ordinance
- criminal law
- civil law
- juvenile law
- consumer law

A teacher panel might judge the stories and give an appropriate award for the best story(ies).

(c) Interview at least three law enforcement officers about the many uses of the following academic subjects in effective law enforcement in your state or community. Using the list of laws in Animal Farm, identify which are criminal, civil, consumer or family laws and describe how each limits/protects. (Reading the novel is not necessary).

- Science
- Mathematics
- English
- Foreign Language

(d) Computer teachers can help students locate various newspapers on the Internet.

# *Judicial Procedures: Understanding the Adversary Relationship*

by
John Burton, Pinellas Park High School, Pinellas Park, FL
Margaret Cleghorn, Clearwater High School, Clearwater, FL
Valerie McElveen, Lakewood High School, St. Petersburg, FL
Rod Palmateer, St. Petersburg High School, St. Petersburg, FL

## INTRODUCTION

This lesson will be useful before the class undertakes a mock trial. One of the basic doctrines of the American system of criminal justice is the need for an adversary relationship between the opposing sides in a criminal trial. It is a part of the doctrine that an accused person is "innocent until proven guilty." The lawyer for the accused person does not sit down and discuss the case with the state attorney. While both sides are entitled to information, it is not good practice for either attorney to volunteer his/her plan of action.

## OBJECTIVES

After completing the lesson activities, students may be expected to:

1. Understand that the opposing sides in a criminal trial should act as rivals, or competitors.
2. Understand one aspect of trial proceedings before attempting the more complex mock trial.
3. Play a role without forcing shy or reluctant students to perform before the whole class.
4. Define and explain: **Felony** **Misdemeanor** **Adversary**

## TIME REQUIRED

two class periods

## MATERIALS

Handout A: Florida Laws and Penalties
Handout B: The Alan Morris Case
Handout C: The Judy Ball Case

## PROCEDURES

It is suggested that the students be given an opportunity to use imagination in pleading these cases. The fact that there is a time limit for each side should be sufficient restriction on their power to introduce evidence.

1. Duplicate Handout A: "Florida Laws and Penalties" and the two cases.
2. Let the class count off and divide into groups of three.
3. Each group will face their desks together and decide what role each student will play in the first round. Make it clear that there will be three cases and each player will assume all three roles.
4. Distribute the first case to all groups. Allow a reasonable amount of time for preparation before trial.
5. The state attorney is the first to present his/her case to the judge.
6. Allow the defendant's lawyer equal time.
7. Judge should write down his decision and hand it to the teacher.
8. Rotate roles until all three cases have been tried.

9. Role Descriptions:

JUDGE
The judge should try to give each lawyer a fair chance. The judge should not interfere with opening statements, or try to dominate the proceedings. He/she may ask questions before making the final decision. The judge should insist that the attorneys stick to fair rules, and should rule out opinions and hearsay evidence.

The judge should spend the preparation time reading Handout A.

LAWYER FOR THE STATE (STATE ATTORNEY):
This lawyer speaks for the state, which is the party in a criminal trial that accuses the defendant of committing a crime. The state attorney will ask the judge for a fine or a sentence after presenting the stipulation.

LAWYER FOR THE DEFENDANT (DEFENSE ATTORNEY):
This lawyer represents the defendant, who has been accused of committing a crime. After the defense attorney listens to the accusations made by the state attorney, he/she tries to raise a reasonable doubt that the defendant either had a good reason to do what was done, or was not guilty of the crime. If the defense attorney cannot plead Not Guilty for the defendant, he/she will always try to plead the defendant Guilty of the least serious crime possible.

## EVALUATION

1. The teacher will read all the decisions (verdicts) of the judges in the first case.
2. Discuss the range of sentences and explore the reasons for variations.
3. Discuss all three cases in this manner.
4. A written evaluation might include these questions:
    a. Which role was hardest to play?
    b. Were some judges fairer than others?
    c. In general, were the sentences too lenient or too harsh, in your opinion?

## CURRICULUM INTEGRATION

Teachers in variety of school subjects can teach about two routes to determining the "truth"; the first is the adversarial route (the topic of this lesson) and the second is a cooperative route. Which is used in science, literature (English), and mathematics research? Why?

Teachers might arrange a panel of authorities in various fields, including the law, to come and discuss the pros and the cons of the adversarial system, as well as alternatives to the system.

*Reprinted from* *__Law Studies for Senior High School__*, *Pinellas County Schools.*

# HANDOUT A

## Florida Laws and Penalties

Understanding the Adversary Relationship between the State Attorney and Lawyer for the Defense.

I. Penalties (775.082)
  A. A felony of the first degree is punishable by imprisonment not exceeding 30 years.
  B. For Second Degree, not exceeding 15 years.
  C. For Third Degree, not exceeding 5 years.
  D. A misdemeanor of the First Degree is punishable by a definite term of imprisonment not exceeding 1 year.
  E. For Second Degree, not exceeding 60 days.

II. Fines to be applied either instead of, or in addition to, the above.
  A. Felony One: $10,000.00
  B. Felony Two: $10,000.00
  C. Felony Three: $ 5,000.00
  D. Misdemeanor One: $ 1,000.00
  E. All other misdemeanors or non-criminal violations: $500.

III. Possession of, or use of a weapon (775.087), takes a felony to the next highest classification.

IV. Statutes
  A. 784.021: Aggravated assault is a Felony Three.
  B. 784.045: Aggravated battery is a Felony Two.
  C. 812.12:
    1. Robbery with a deadly weapon is a Felony One, a term not exceeding life imprisonment
    2. With a deadly weapon: Felony Two.
  D. 817.035: Robbery schemes are Misdemeanor One.
  E. 812.015: Retail theft: Misdemeanor One.
  F. 812.019: Theft dealing in stolen property: Felony Two

V. Delinquent Children (39): If a child is adjudicated delinquent for a serious crime and it is a second offense, the State Attorney should request that the child be transferred to an adult court.

## HANDOUT B

### The Alan Morris Case

Alan Morris is an unemployed factory worker. He has been looking for work for six months. He is married and has two small children. He has never been in trouble with the law. Alan has missed three payments on his house and car. He is being hounded by bill collectors, and his car is about to be repossessed. Alan's brother lives in another state. Alan's brother calls and tells him that there is work in his town, but that he cannot afford to lend Alan money to move or make his car payment.

Late one night, Alan feels so desperate that he takes his son's toy pistol and heads for an all-night convenience store. Alan walks into the store. Waving the toy pistol, he ties up the clerk, takes all the money from the register, and runs back to his car.

Alan speeds away down the highway. When he gets about 5 miles down the road, he suddenly realizes what he has done. With a mixture of guilt and fear, he turns around. He returns to the store intending to return the money. When Alan is in the store the police arrive. They arrest him.

If you are the State Attorney, what offenses will you charge him with?

If you are Alan's lawyer, what offenses will you plead for him?

# HANDOUT C

## The Judy Ball Case

Judy is a junior in high school. She is one of seven children and does not get along with her parents. She has been making poor grades and wants to quit school and get married. Her boyfriend Craig is in jail for assault and selling drugs. Judy is on probation for possession of more than 5 ounces of marijuana.

One day, a friend of Craig's hunts Judy up at school. He tells Judy that Craig wants her to help him by traveling to Georgia to pick up a car. The friend tells Judy that he will let Craig and her use the car when Craig gets out of jail next month. He also tells Judy that the car has to be picked up that day.

Judy agrees to help Craig's friend. The round trip to Georgia takes12 hours, and Judy is very tired when they drive back into town that night. She is following Craig's friend when she runs a red light. A patrol car pulls her over. Judy is driving without her license. The officer deoes not believe her story. Craig's friend is nowhere in sight. When the officer says that he would like to look in the trunk of the car, Judy is so tired and scared that she hands him the keys. There are out-of-state cartons of cigarettes in the trunk. Judy is arrested.

If you are the State Attorney, what offenses will you charge her with?

If you are Judy's lawyer, what offenses will you plead for her?

# *Justice or Lottery: Does DNA Profiling Violate Basic Constitutional Rights?*

by Robert B. Taylor, Meridian Academy, Meridian, ID

## INTRODUCTION

This lesson plan presents a fictitious felony robbery case in which the prosecution wants to introduce DNA evidence found at the scene of the crime coupled with a sample of DNA from the accused. There is little physical evidence to link the defendant to the crime. Both the prosecution and the defense must present evidence to the judge, who must rule on the constitutional issue of forcing the defendant to submit to an DNA sample for comparison purposes.

The students are expected to have been introduced to general courtroom procedures. They should also be familiar with the Constitution and its amendments, as they will be making major decisions based upon the rights of individuals in these United States.

## OBJECTIVES

As a result of this lesson the students will:

1. Describe deoxyribonucleic acid (DNA) and how it is used in criminal prosecution cases.
2. Compare and contrast standard fingerprinting techniques and usage in our criminal justice system with the new technology of DNA profiling.
3. Analyze a court case and develop prosecution and defense arguments.
4. Write a court brief for presentation to a judge.
5. In a classroom court setting, present developed arguments to a judge.

## TIME REQUIRED

six class periods

## MATERIALS

Reading on DNA. This can be a collaborative effort with your science teacher
Handout A: DNA Profiling Procedure
Handout B: A Fictitious Case Study
Handout C: The Pros and Cons of DNA Profiling
Handout D: Instructions to Lawyer Teams
Handout E: Grade Sheet
A Constitution and its amendments (commonly found in any history, government, or civics textbook)

## PROCEDURES

1. Introduce the lesson by discussing the overall goals and objectives for the entire lesson period.

2. On the blackboard or using an overhead, write the following: "Law enforcement officials have many ways to investigate a crime scene in an effort to identify the perpetrators. How many can you think of?"

3. After a few minutes for thought and jotting down of their answers, have the students report. Put all of their answers on the board. Have the students rank their answers from the most used to the least used. (You will get a large list. Accept all responses, for each one can be discussed. Your list will include such things as fingerprinting, interviews, physical evidence, photography, laboratory analysis and, if you are lucky, one or more of your students will

mention DNA.)

4. If DNA is not mentioned, do not bring it up at this time. If it was listed let it fall where it may for now. Using discussion and questioning, narrow the list down until the students have agreed on three of the most used investigative methods. Fingerprinting should be one of the three. Have the students write these three down.

5. This is a good time to divide your class into groups of two or three students; each group will become a lawyer team.

6. Have your teams discuss the three items, and using a United States' Constitution and its amendments, decide if any of the three have the potential of violating their constitutional rights.

7. Have the lawyer teams orally report on their findings. (Some or all of the groups may feel that there are rights violations. If so, this is a good time to discuss them. If you can not resolve their concerns at this time, table the discussion until you can contact a professional to answer the question.)

8. If fingerprinting is not considered a rights violation, ask why not and discuss the issue. Then have the teams take notes as you discuss a short history of fingerprinting as used in criminal cases. This information is readily available in any decent encyclopedia. The students should know that the practice of fingerprinting is over one hundred years old. It was first used in Sing Sing Prison, New York for prisoner identification. Fingerprinting became a staple of criminal investigation when the FBI began their national fingerprinting clearinghouse to assist law enforcement throughout the United States. The facts that fingerprinting is a non-invasive procedure and that scientifically it is believed that there are no two identical sets of fingerprints among the citizenship should be discussed for their notes. It is also important to let them know that there are standards for gathering prints, reading prints, comparing prints, and analyzing prints.

9. Review the lesson. Ask why fingerprinting is an accepted investigating tool throughout the United States.

10. Distribute the Reading on DNA. (If possible have a science teacher come in and give a short lesson on what DNA is and how it can be identified to locus or type in individuals. As a minimum, students should know the following: DNA is found in all human tissue. The basis of all tests to determine matching relies upon the fact that a DNA sample can be arranged into a pattern, something like a supermarket bar code and a specific locus or point can be identified then compared with the pattern and locus of other DNA samples.

11. Set students into lawyer groups. Each group should be comprised of equal numbers of prosecution and defense attorneys.

12. Using Handout A, DNA Profiling Procedure, lecture while the students take notes on the methods used to perform DNA profiling and the odds on having a positive match.

13. Distribute Handout C, The Pros and Cons of DNA Profiling, to the prosecution and the

defense teams. Discuss these with the teams.

14. Distribute Handout B, A Fictitious Case, to both the prosecution and the defense teams. Read through the case and field any questions.

15. Distribute Handout D, Instructions to Lawyer Teams. Discuss.

16. Distribute Handout E, DNA Profiling Grade Sheet. Discuss.

17. Instruct students that the next class period will be used to put the case together for lawyer teams. Inform the students that they will have two class periods to prepare their court appearance.

18. Begin the next day by explaining how you would like the briefs written, and what your expectations are for the lawyer team oral arguments.

19. The students in their lawyer teams will spend the rest of the period and the following period preparing their written and oral reports.

20. On the next day for presentations, have the room set up as a courtroom. The judge's desk should be at the head of the class facing two desks on the left for the prosecution team and two desks on the right for the defense team.

21. Call one defense team and one prosecution team to begin their oral arguments. Inform them that they must present the written argument upon completion of their oral presentations.

22. Student lawyer teams begin presentations.

23. For more excitement, you may wish to video tape the procedures.

24. To debrief the students, review the arguments posed by both the prosecution and defense teams.

25. Ask how the procedures in DNA profiling compare and contrast to those used in fingerprinting.

26. Ask why there is controversy over the DNA procedures.

27. Do any of the students believe that DNA profiling will become as widely accepted as fingerprinting by both prosecution and defense lawyers?

28. Discuss with the students their feelings on how modern technology impacts our traditional right to privacy as stated in the first ten amendments of the United States Constitution.

## TIPS FOR THE TEACHER

The author field tested this lesson in three different 12th grade American Government Classes. In each class he tried a slightly different approach:

1. Both first and fourth period prosecution and defense teams were given both the pros and the cons of DNA Profiling.

2. Fifth period prosecution teams received on the pros of the DNA Profiling. The defense teams received only the cons of DNA Profiling.
3. In the fifth period class the students selected a student for the judge role. The author acted as judge in the other classes.

The results of these experiments were very satisfactory in each of the classes; however, the author believes the withholding of opposite side DNA profiling created a more exciting oral presentation. The class that used a student judge also provided a more interesting court presentation.

As part of closure and in order to measure learning, the author required each student to assume the role of judge and write a decision based on the information learned in the lesson. The results were excellent. Most students included information from many sources and wrote a comprehensive decision.

Our science teacher presented information on DNA as suggested in this lesson plan. This was highly successful and all lawyer teams used information from his presentation.

## EVALUATION

Evaluation opportunities are built into the learning activities. Teachers might take the suggestions in the "Tips for Teachers" section above, and Sections 24 and 28.

## CURRICULUM INTEGRATION

Science is a natural component of this lesson. Cooperate with the teacher to infuse science into this lesson. In addition, local medical technology personnel might assist in teaching about DNA.

Write ro the Florida Department of Law Enforcement, P.O. Box 1489, Tallahassee, FL 32302 to ask their experts to update handouts, if needed, so that they are consistent with current research in serology and criminology.

*This lesson distributed through the Warren E. Burger National Repository for Educational Materials on Citizenship and the Constitution Center for Research and Development in Law-Related Education. 1-800-437-1054. Lesson Number: 71536B.*

# HANDOUT A

## DNA Profiling Procedure

There are at least three private corporations in the business of performing DNA matching: Life-codes of Valhalla, New York; Cellmark of Germantown, Maryland; and Cetus of San Francisco, California. These three have set the standards for DNA profiling. We will look at each of these three and the method each uses.

Life-codes uses a single-locus probe that can select a particular chromosome and a specific site on that chromosome. This can then be matched to a specific sample found at the crime scene. "A match between them puts the two samples within a determined percentage of the population who have an identical banding pattern." Generally, the more the probes, the more the chance, statistically, that the right person will be identified as the guilty one.

Cellmark uses multi-locus probes. "Through the use of this probe, it is possible, according to the published reports of its inventor, to discern up to fifteen bands or individual markers in the DNA of a particular person or in that from a crime scene sample." In this case, the more bands that match, the more likely, statistically, of having the correct person.

Finally, Cetus can amplify the DNA samples through a process called polymerase chain reaction (PCR). This amplification can then match single or multi-locus probes, as explained above.

Currently, all of these methods require careful handling of the samples collected at the crime scene. The technology of DNA profiling is growing at a rapid pace, but the collection of samples needs much work to reduce the chance that samples are flawed.

Consider the following quote: "In the last three years, court testimony involving statistical probabilities has been increasing rapidly. The focus of this testimony has been on the analysis of evidence found at the scene of a crime, most often a violent crime. Laboratories analyze a sample of hair, skin, or some bodily fluid and compare the DNA found in the sample with DNA sample obtained from a person who has been arrested for a crime. As a result of such analyses, scientists have been testifying at trials that the odds of a false match occurring are anywhere from 1 in 500,000 to 1 in 5,000,000." Would you bet a dollar to win a lottery at odds of 17 million to 1? Many people do. Would you bet your life on 1 to 500,000 or 1 to 5 million odds? Think.

## HANDOUT B

### A Fictitious Case Study

On October 2, 1993 a man walked into a convenience store on State Street in Boise, Idaho. This man was dressed in a heavy, tightly closed raincoat. He had a ski mask over his face which obscured both his hair color and his face, except for his deep blue eyes. The man was armed with a short barrel shotgun. In the store, at the time, were a female clerk and two customers. The gunman ordered the two patrons to lie on the floor out of the sight of the street. He then ordered the clerk to open the cash drawer and the safe, located in the floor behind the counter. Ha appeared to know the procedures followed by the store employees in regard to their handling of money. He then demanded that the money from the cash register be put into a soft leather bag resembling a bowling ball bag. The clerk, keeping her cool, did as ordered, but stated that she could not open the safe and that it could only be opened by the day manager. The thief stated "I know that you are a day manager working this shift temporarily and you know how to open the safe. If it is not opened in one minute I will kill you and these customers." The woman then opened the safe and filled the bag with the contents. The thief jumped over the counter and hit the woman over the head with the gun. She dropped to the floor, critically wounded. In the process of this action, the thief tore a large section of skin off the back of his hand. The wound bled profusely on the counter and the floor around the safe. Neither patron observed this action as they had their heads down as ordered.

The thief ran out the door into the lighted area and headed into a darkened side street running along the side of the store. For a brief second, an arriving patron saw a man running away from him into the dark. The police arrived five minutes after the new patron called 911. As the paramedics rushed the clerk to the hospital, the police questioned the patrons and began an area search around the store. The oral sketches of the incident were bleak at best. All patrons agreed on the clothing and the height of the suspect but could not give exact details. No sign of the man was found nor was any form of transportation located. At the crime scene, the police collected samples of skin and blood from the counter and around the safe. These samples were bagged and sent to a certified crime lab located in Salt Lake City, Utah.

Several days later, the police were able to talk to the clerk. She told of the deep blue eyes, the color of the ski mask, the design of the overcoat, and stated that she thought she could recognize the voice. She also stated that she thought the man knew too much about the procedures including that she was a manager.

The police collected store employment records for the past five years and began the tedious process of investigating all past employees that may match the eye witness reports. After narrowing the list to about ten, the police began locating the men and asking questions. They found one man who had light blond hair and blue eyes. He also had a bandage covering a large sore on the back of his right hand. His name was Carl. He said that he had hurt his hand cutting fire wood in the forest a few days before the police found him. He showed the officers the freshly cut and split wood. He stated that he was home asleep the morning of the robbery but no one could vouch for that fact as he lived alone. The sore on his hand was healing and scabbed over, indicating that it was a few days old. When asked to explain exactly how his hand was hurt, he stated that "a falling tree kicked back when it fell and tore the skin off the back of my hand." The logging area was now covered with snow and no sign of the accident could be found.

In a line-up that included a voice sample from each of the men, the clerk made a positive identification based upon a voice identification only. The other patrons could not come to any conclusive identifications.

Based upon the positive voice identification and the wound on his hand, Carl was arrested and charged with armed robbery, assault with a deadly weapon, and attempted murder.

The prosecution, seeking a positive identification, wants blood and skin samples from Carl for an attempt to make a DNA match. The defense has refused and the issue has gone before Judge Jones. The prosecution is asking for a court order to obtain the needed samples. Judge Jones is not familiar with the DNA processes and is concerned with the accused's constitutional rights. He has asked both sides to present him with a written and oral briefs on the issue. He has set a hearing for two days from now.

## HANDOUT C

### Pros and Cons of DNA Profiling

PROS:

1. The odds of a false match are 1 in 500,000 to 1 in 5,000,000.
2. The very fact that a DNA match may be made when samples are taken from an accused has caused many accused persons to confess.
3. DNA profiling can help immensely in rape cases where body fluids are found and an accused is aware of the high probability of a match.
4. The possibility of a match being wrong is less than the possibility of an eyewitness being wrong. Many eyewitness accounts are shaky at best and wrong at the worst.
5. The police investigators are becoming better at properly handling DNA evidence which reduces the chance of error. There is still a long way to go and continuing training must be carried out in all investigative areas of crime detection.
6. DNA matching has been used in many criminal cases and few defense objections have been forthcoming. It appears that defense lawyers have generally accepted the fact that DNA profiling is a viable identification tool.
7. DNA has a higher acceptance in a court than do lie detector tests. Currently, lie detector identification is not permitted in a court of law.
8. The FBI is currently doing DNA testing and is setting up a nationwide database.
9. DNA profiling has an equal chance of exonerating a person as it has of finding a person guilty. A recent case report in local newspapers told of a rapist who had spent many years in jail being exonerated by DNA samples that showed the person could not have committed the crime. The courts accepted this finding and released the man.

CONS:

1. The odds of a false match are 1 in 500,000 to 1 in 5,000,000.
2. The collection and protection of crime scene samples is not standardized nor perfected.
3. In at least one case, mistakes in both the handling of the sample and in the tests themselves bring into serious doubt the reliability of tests. In *People v. Castro*, a case in which a Life-codes method was used, both the prosecution and defense stated jointly that "The DNA data in this case are not scientifically reliable enough to support the assertion that the samples . . . do or do not match."

4. Few police investigators are properly trained in the handling of DNA samples. They lack the proper refrigeration, sanitary storage, or sanitary utensils for correctly gathering samples at the scene.
5. There is no clear standardization for interpretation of results. The possibility of contamination, sloppy or shoddy lab tests, or degraded samples is high. Without national standards and a clear trail of care from the original samples to laboratory testing, the results of DNA matching will always be chance rather than a scientific fact. "In a three year study funded by the Justice Department, forensic laboratories received identical dried blood stains; 71.2 percent of the 128 labs participating in the study either mistyped the sample or reported inconclusive results."
6. There is a lack of licensing and proficiency testing for DNA sample handling and testing. An example of this took place in California in 1987, ". . . the California Association of Crime Laboratories conducted the only proficiency testing to date of the three private laboratories engaged in DNA typing. Cetus and Cellmark mistakenly matched unrelated samples. They did not complete fifty without inculpating an innocent person . . . Although Lifecodes called all fifty correctly, its researchers completed the tests, rather than the technicians who usually perform them."
7. It seems clear that DNA profiling has a long way to go before it can be reliably used to convict citizens. What is not clear is how all of this will abridge all of our protections granted to us in the Bill of Rights.

## HANDOUT D

### Instructions for Lawyer Teams

You have been divided into two-person teams of prosecution and defense lawyers.

Each team must present to the judge both a written and oral brief on why or why not the prosecution should or should not be granted a court order that would allow the prosecution to take both skin and blood samples from Carl for the purpose of a positive identification of him as the person who beat and robbed a local convenience store clerk.

Each team will be responsible for the following:

1. Using all your notes on DNA and DNA profiling, the handout on the pros and cons of DNA profiling, the fictitious case study, and a copy of the United States constitution and its amendments, prepare both a written and oral brief.
2. The prosecution teams will argue in the briefs that Carl should be forced by the court to submit to both blood and skin samples.
3. The defense teams will argue in their briefs that an order to force Carl to submit to blood and skin samples should not be granted.
4. The defense and prosecution teams will face off in front of the judge. Each, in turn, starting with the prosecution, will present oral arguments and answer questions from the judge. At the conclusion of oral arguments, each team will hand the judge a written brief. The written and oral briefs must:
    1. Use examples from your sources.
    2. Be written in ink or typed.
    3 Be clear and succinct, keeping to the theme of the argument on the permissibility of requiring a person to give samples for the purpose of matching crime scene DNA samples with the suspect's samples.

The teams will be graded on both the written and oral brief. The grading criteria can be found on your grade sheet. Good luck and have fun.

## HANDOUT E

## DNA Profiling Grade Sheet

This grade sheet shows the elements that will be used to grade both the written brief and oral brief. It is given to each team to help them prepare their presentations.

For the purpose of grading, each element shown will be given a number from 1 to 4; 1 is equal to a "D" and a 4 is equal to an "A." Plus or minus marks may also be used, for example, 4+ would equate to an A+.

ITEMS TEAM NAMES

| | PROSECUTION | DEFENSE |
|---|---|---|
| | ______________ | ______________ |
| | ______________ | ______________ |

| CONTENT | PROSECUTION | DEFENSE |
|---|---|---|
| 1. Clear, convincing arguments | [ ] | [ ] |
| 2. Clearly organized | [ ] | [ ] |
| 3. Uses logical reasoning | [ ] | [ ] |
| 4. Uses sufficient examples | [ ] | [ ] |
| 5. Clearly understands issues | [ ] | [ ] |
| **DELIVERY** | | |
| 1. Spoke directly to judge | [ ] | [ ] |
| 2. Spoke clearly | [ ] | [ ] |
| 3. Used notes sparingly | [ ] | [ ] |
| 4. Was enthusiastic | [ ] | [ ] |
| 5. Maintained courteous attitude | [ ] | [ ] |
| 6. Used effective gestures | [ ] | [ ] |

NOTES:

______________________________________________

______________________________________________

______________________________________________

______________________________________________

______________________________________________

WINNING TEAM: ______________ JUDGE'S SIGNATURE ______________

# *Keep Out, It's Mine*
## *Reasonable Expectations of Privacy*

by Linda Spycher; Mount Pleasant High School, Mount Pleasant, MI

### INTRODUCTION
This activity is designed to make students aware of the wealth of personal information that is available and distributed through the use of technology. The activity will allow them to discover just how much information they freely release, how laws may control who has access to it, and how their privacy may be protected.

### OBJECTIVES
As a result of this lesson, students will:
1. Identify information that may be easily obtained by an outside source, including businesses or the government.
2. Develop an understanding of how laws may be used to protect our privacy.

### TIME REQUIRED
two class periods

### MATERIALS
A large sheet of newsprint and colored markers
An assortment of magazines that include entry blanks, application and order forms
Handout A: Relevant Legislation

### PROCEDURES
1. Homework the night before presenting the lesson: Have the students ask their parents for four or five examples of kinds (categories) of things about themselves or their family that they consider private and would not necessarily want known by the general public. (Stress that you want *kinds* of things not specifics!)
2. The next day make a list of these kinds of items on a grid that might look something like this:

   First Column heading: Private details
   Underneath: income

   Second Column heading: Who has the information
   Underneath: Banks

   Third Column heading: Where did they get it
   Underneath: Credit Application

   Fourth Column heading: With whom do they share it
   Underneath: Other banks, stores, credit bureaus

   You may want to put this grid on a large sheet of newsprint so you may reuse it or refer back to it on following days. Discuss the entries for each column as students volunteer information. You may need to supplement the answers for the last column.
3. Ask the students: Why might they want this information kept private? How did their parents

respond when they asked them about this? Who might need to use this information? Why might they need it? How will they get it?

4. Next divide the students into pairs or groups of three. Pass out an assortment of old magazines to each group and ask them to locate any examples of companies or organizations asking for information about them. (Here's your chance to be creative, while directing them to find a variety of examples. Be sure to include magazines with which they are most familiar, such as TV Guide, Sports Illustrated, fashion, news, etc.) Within five to ten minutes, they should find several forms for mail order merchandise, samples, record/tape clubs, insurance, telephone services, credit cards, coupons, and so on. Your preparation should include making sure these things are in the magazines that you are passing out.
5. Now refer to the grid and ask for further examples. (Don't be surprised if you have to add more paper!) Make sure you stress with whom may this information be shared. Ask why might they need to know this or what will they do with this information.
6. Distribute Handout A, allowing time to read it in class.
7. Refer back to the grid that was prepared by the class and ask the students where these laws may have an effect on what information can be released.
8. Questions that should be asked at the end of the lesson include: How can someone find information about you? How often do you freely release personal information about yourself and your family? How can you prevent businesses or agencies from obtaining this information?
9. Complete the lesson by asking students to write a short essay about how laws effect their privacy. They should include specific examples of what they want protected, how the law may or may not protect their privacy, and how they feel about the entire issue.

## CURRICULUM INTEGRATION

Ask the English teacher to cooperate in assessing the essay which students produce in Section #9 above.

Ask a team of students to interview the guidance office director in the school on the data which the school maintains on each student, and students with special characteristics or needs. The team should report to the class. Seniors might do similar interviews with appropriate officials at local community colleges, technical institutes, colleges, and/or universities. What data is collected and maintained? For how long? Why is this data necessary?

If your school has a technology teacher, ask him or her to come to class to discuss the privacy questions regarding computer files.

## EVALUATION

Evaluation of student progress should be continuous throughout the lesson, as the teacher should make an effort to include all students in the discussion. The groups could include roles for each student, such as recorder, observer, and spokesperson. A written list from each group could also be used to evaluate how well the student understands that laws may be used to help protect their privacy.

## TIPS FOR THE TEACHER

The amount of time needed for this lesson may vary depending upon the background of the students and the length of discussion time allowed by the teacher. Some direction may be needed initially if the students have never thought about privacy. This is especially true when filling out the grid, as younger students may not be familiar with the functions of credit bureaus, the Internal Revenue Service, financial institutions, etc. The teacher may want to write out a suggested list of details for the grid in the event that the students exhaust their responses prematurely.

The whole point of this lesson is to get the students thinking about how easy it is to get information that they might have thought was private.

## TOPIC SUGGESTIONS FOR USE ON THE GRID

- Address
- Age
- Alcohol/Depression
- Appearance/Description
- Assets, Debts, Credit
- Bank Accounts
- Birthplace
- Brothers, Sisters
- Charitable Donations
- Children
- Club Memberships
- Credit History
- Criminal/Court Record
- Driver License
- Driving Record
- Education
- Employment History
- Ethnic Background
- Family History
- Grade Point Average
- Home Ownership/Rental Income
- Insurance
- Licenses (Boat, Gun, Trailer)
- Magazine Subscriptions
- Marital Status
- Medical History
- Membership in Associations
- Merchandise Purchases/Registration
- Military
- Mortgage
- Movie Rentals
- Next of Kin
- Personality Test Results
- Physical Characteristics
- Physical Disabilities
- Police Record
- Political Affiliation
- References
- Religion
- Sexual Preferences
- Social Security Number

## ADDITIONAL SUGGESTIONS

Invite an outside resource person to class to discuss the ways that privacy may effect their job or business. This may include a school counselor or administrator, banker, personnel director, medical worker, cable communications worker, or law enforcement officer.

Students may want to create a bulletin board with examples of how information may be collected. They could bring in forms or applications that were received through the mail at home, or collect them from area businesses. These could be displayed by categories selected by the students.

Have students research ways that they might prevent personal information from being released without their permission. This could include writing to the Consumer Protection Division of the State Department of Commerce, the Federal Trade Commission, the American Civil Liberties Union, the Consumer Affairs Office of various credit card companies, or the Direct Marketing Association, 11 West 42nd Street, New York, NY 10036.

*This lesson distributed through the Warren E. Burger National Repository for Educational Materials on Citizenship and the Constitution Center for Research and Development in Law-Related Education. 1-800-437-1054. Lesson Number: 71545A.*

# HANDOUT A

## Relevant Legislation

**Cable Communications Policy Act (1984)**

Protects the records of interactive cable television subscribers.

**Electronic Communications Privacy Act (1986)**

Protects the confidentiality of messages sent across third party services. Including: cellular phones, wire, land mobile radio, or paging services.

**Equal Credit Opportunity Act (1975)**

Forbids discrimination based on gender, marital status, race, color, religion, national origin, age, or source of income for those seeking consumer credit.

**Fair Credit Billing Act**

Requires creditors to respond to your written complaint about your bill within 90 days.

**Fair Credit Opportunity Act**

Requires creditors that refuse you credit to tell you the specific reasons why.

**Fair Credit Reporting Act (1970)**

Requires creditors that deny you credit based on information they receive from a credit bureau to tell you where they got that information, as well as the name and address of the bureau.

**Family Educational Rights and Privacy Act of 1974**

Gives parents and students over the age of 18 the right to see their education records.

**Privacy Act of 1974**

Gives an individual protection from the federal government disclosing information without their written consent. This includes medical, financial, criminal, and employment records.

**Right to Financial Privacy Act (1978)**

Protects against government investigation of personal financial records without knowledge of the consumer.

**Tax Reform Act (1976)**

Requires that taxpayers be notified if their tax records are investigated.

**Video Privacy Protection Act (1988)**

Prevents the release of information about a customer when a videotape is rented.

# *Law Enforcement*

by
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## INTRODUCTION

Similar to the popular simulation *Police Patrol*, this lesson engages students in the work of law enforcement officers. It provides a career-opportunity overview, the nature of and qualifications for law enforcement employment, and realistic law enforcement situations for discussion with a law enforcement resource person in the classroom.

## OBJECTIVES

After completing the lesson's activities, students will be able to:

1. Identify the duties of a police officer.
2. Name some of the people and agencies involved in law enforcement.

## TIME REQUIRED

three class periods

## MATERIALS

Handout A: Role of the Police
Handout B: Law Enforcement
Handout C: Police Investigations
Handout D: On the Beat

## PROCEDURES

1. Before you begin the unit, have the students list what qualifications they feel a person must have to be a law enforcement officer. Go over these in class discussion. Two other questions that could be considered for class discussion are:
    a. What else would you want to know about a person who applied to become a law enforcement officer?
    b. What kinds of tests do you think applicants should have to pass before entering training to become an officer? Why?
2. Ask students to list the duties of a policeman. Handout A: The Role of the Police. In a class discussion after the reading, have them compare their first list to the duties listed in the reading. It is a good time to have them write down questions that they would like to ask an officer about his/her duties.
3. Give them Handout B on "Law Enforcement" for additional information.
4. Use the activities included on the police : Handouts C and D. This may be done individually or in groups. If you are going to have an officer in the classroom you may arrange for them to give the exercise to the students. This would allow them to give expert answers to the students.

## EVALUATION

The teacher has ample opportunities to assess student learning as they perform the activities inherent in this lesson.

## CURRICULUM INTEGRATION

Teachers in a variety of school subjects might contribute to this lesson extension by indicating what knowledge and skills from their disciplines are needed by better trained and educated law enforcement officers today -- modern languages, science, English, speech, mathematics, art, etc. The teachers might write and use scenarios like those in Handout D which show law enforcement officers needing the knowledge and skills.

*Reprinted from Law Studies for Senior High School, Pinellas County Schools.*

# HANDOUT A

## The Role of the Police

We all have a different idea of what the function and duties of a police officer are. The police have always had a very vital but controversial role in society. The police officer's job must also keep changing to keep up with the changing problems of society and the new techniques of law enforcement. Today more education is required to qualify for the job. Computers and other data systems are now used extensively within a department. Also more scientific methods are being used in investigations. With all these changes, the role of the police has not gotten any easier.

The following outline is a general grouping of the duties of the police.

A. Protection of life and property.

This area covers a wide variety of these duties. Some of these include:

1. First aid training. The officer may face a wide range of emergencies and must know how to stop severe bleeding, handle artificial respiration, deal with fractures, rescue drowning people, perform C.P.R., handle shock and even deliver babies.
2. Police must inspect and report unsafe paces such as: deep holes, unsanitary locations and conditions, abandoned refrigerators and unsafe streets.
3. Police departments are also a vital part of all disaster plans for hurricanes, floods, fires, riots, etc.

B. Enforcement of the Law.

This is, of course, why they are referred to as law enforcement officers. This is probably the most difficult and thankless job the officer has. There are thousands of federal, state, and local laws that they are expected to enforce. Police must also decide when to enforce or not enforce these same laws.

C. Arrest of offenders and recovering stolen property.

This is one of the oldest and most "glamorized" duties of the police. It is also one of the most dangerous.

Apprehension of criminals has come a long way with the scientific methods that are now being used. For example: computers in patrol cars, ballistics, chemical analysis, polygraph, voice prints, hypnosis, and many others. The officers also must make sure while they are collecting evidence to stay within the guidelines that are set up to protect the rights of the suspect.

D. Keeping the peace.

Police try to guarantee the rights of citizens to live in a peaceful community. They do this on a large scale by enforcing laws, preventing riots, and calming unruly mobs. On a smaller scale, but handled much more frequently is the arbitration of disputes between family members, neighbors, landlords and tenants. Though hopefully these may not be very serious, many times they are tragic. The second highest reason for officers killed in the line of duty is responding to disturbance calls.

E. Crime Prevention.

Police try to work with all citizens to help protect them and keep crime down. They have a number of special programs to help. School programs are an example as well as safety tips for women, drug education, senior citizen programs, child molestation prevention, watchouts, etc.

These are the major functions of the police. There are many duties the officers must carry out as community helpers. The divisions of a typical law enforcement agency are used to help split some of the duties and train many for one specific job.

However, any officer may be called on at anytime to do any of the jobs needed at a given time.

The usual divisions are:

1. Traffic - to keep an orderly safe flow of traffic.
2. Patrol - basically for the prevention and primary investigation of crime.
3. Detective - to handle in-depth investigation of felonies.
4. Vice - to investigate crimes related to drugs, gambling, liquor law violations, and sex offenses. These officers usually operate "under cover."
5. Juvenile - they enforce laws pertaining to juveniles. They usually investigate such crimes as vandalism, runaways, incorrigibles, and child neglect.

## HANDOUT B

### Law Enforcement

When one thinks of law enforcement, one tends to think only of the local city, county and state officers. Though they are some of the most important and visible members of law enforcement, the field goes much further. First of all, there are many people who back up these officers. There are secretaries, chemists, pilots, skin divers and more. The federal agencies, such as F.B.I., play a major part in enforcing the hundreds of new laws made each year.

The executive branch of the federal government has as its prime duty the enforcement of federal law. There are a number of departments, bureaus, and agencies that are actively involved in handling their particular legal responsibilities. Here are some of those departments and their area of enforcement:

A. U.S. Department of Justice - Attorney General is the head. The F.B.I. investigates all federal crimes not assigned to other agencies (crimes such as espionage, sabotage, interstate crimes, etc.).
B. State Department - They cover passport and visa applications.
C. Central Intelligence Agency - They handle international law enforcement.
D. Immigration and Naturalization - Border patrols
E. Treasury Department
    1. Coast Guard - enforce maritime law, safety laws and port security.
    2. Bureau of Customs - responsible for smuggling violations and collecting tariffs.
    3. Internal Revenue Service - enforce Internal Revenue violations and the Alcohol, Tobacco and Firearms Division. Enforce laws relating to taxes on these items.
    4. Secret Service - protect the President, investigate counterfeiting, and all other laws of the treasury.
    5. Drug Enforcement Agency - Enforces federal narcotic laws.
F. Department of Defense - Army, Navy, and Air Force Intelligence investigate espionage and sabotage involving delimitation agreements.
G. Department of the Interior - investigate and enforce laws pertaining to the areas under: Bureau of Indian Affairs, Bureau of Mines, Fish and Wildlife Service, and the National Park Service.
H. Department of Agriculture - enforce laws involving and protecting farms and consumers.
I. Department of Labor - enforce laws pertaining to wage laws and fair labor acts.

J. Post Office Department - they are responsible for enforcement of postal laws, regulations on lotteries and extortion through the mails.

There are a number of independent agencies with investigative powers. Can you name them?

# HANDOUT C

## Police Investigations

### DIRECTIONS

The three cases that follow are situations that a police officer might encounter. Read each case and decide how you might handle it.

### CASE #1

You are a city policeman on patrol in a squad car. The time is 2:00 a.m. on a Friday in January. The temperature is about 21°. You look down an alley and see a parked pick-up camper. The license plate is partly covered by mud. You get out of the car to check the identification of the vehicle. As you pass by the side window, you see some movement. You think you hear a child crying. You open the door and see three children, about three, five and seven years of age, huddled together on a mattress in the back. They have only a thin blanket to cover them. None of them seems to know where their parents are. In order, list the next five steps you would take.

### CASE #2

You are a city policeman patrolling in a squad car. It's 1:00 a.m. on a Tuesday morning. It is raining. The dispatcher sends you to a liquor store in the downtown area where a burglar alarm has just sounded. You arrive four minutes later, and discover that the door in the back has been forced open. You see a boy, about 16, lying still on the ground. Two older boys are standing over him. When they see you, they run and jump into a dark colored Mustang, and speed off. You notice the boy on the ground is bleeding badly. In order, list the next five steps you would take.

### CASE #3

You are a deputy for the sheriff's department. You are doing some paper work at your desk. A call comes in from an excited man. He says that a man and a woman in the house next to him are fighting loudly. He said the woman screamed that she had a gun, and it sounds like they are both drunk. You get the address and get another deputy to go with you. You get there as fast as possible and there is a man waiting on the sidewalk outside the house. He says he is the one that called and that the fight is still going on, louder than ever. In order, list the next five steps you would take.

## HANDOUT D

### On the Beat

DIRECTIONS
Below are some descriptions of situations that a police officer might face. Read each one, decide what you would do if you were the officer, and circle the number that represents your choice.

1. A teenager steals a car. You are in pursuit. You turn your siren on. Rather than slowing down, the teenager increases his speed. When you pull alongside of him, he laughs and tries to cut you off. What would you do?

    1. Curb the car even though it would mean personal injury and property damage to both the teenager's and police vehicles.
    2. Fire warning shots, and if that doesn't stop the car, aim at the tires.
    3. Take the license number and allow the teenager to get away.
    4. Call for additional help from fellow officers and then just keep close to the speeder.
    5. Other (specify):

2. You and another officer respond to a call from a woman who telephoned that three men were burglarizing another apartment in her apartment house. You charge up to the door of the apartment that supposedly is being burglarized, bang on the door, and call out, "Open up, police!" No one opens the door. What would you do?

    1. Kick in the door with a drawn gun and prepare to fire the gun.
    2. Surround the apartment house and wait for the culprits to come out.
    3. Return to the car and ask for police dogs to assist in the search.
    4. Question the apartment resident who called the police to find out more information.
    5. Other (specify):

3. It's ten o'clock on a cold winter night. You are walking your beat. You notice that a car is parked in front of a liquor store. The lights in the store are out, but the door seems to be unlocked. the moment you try it, the man from the corner newsstand comes up and says, "Two men with guns went in there. I think the old man who owns it is still there." What would you do?

    1. Cautiously open the door and say, "Police. Come out with your hands up."

2. Quickly call for help, stay outside the store, and wait for more police to arrive.
3. Fire warning shots and then call out, "You're under arrest."
4. Question the witness about the proprietor and whether the witness had actually seen the man enter the store, and then call for help.
5. Other (specify):

4. You are in your patrol car. A red car speeds by. The car has no muffler, and it is speeding. You pull up next to the car and stop it. You ask the driver for his license. The driver reaches into his pocket. He pulls out a $20 bill. "Officer, you're a nice guy," he says. "Take this and let's forget the whole thing." There is no one else around. What would you do?

   1. Arrest the man for speeding and attempting to bribe a police officer.
   2. Give the man a ticket for speeding and ignore the $20 bill.
   3. Take the $20 bill after making a driver's license check and learning that this man, who has six children, will lose his license with another offense.
   4. Listen to the fellow, do a license check and after hearing his tale of woe let him go with a warning and his $20 bill.

5. You are patrolling a department store. You see a teenage girl pick up a scarf from a counter. She slips it into her raincoat pocket and leaves the store. You follow her out, stop her, and ask her to take the scarf out of her pocket. She says, "Look, I've never done anything like this before. I've never been in any kind of trouble. Couldn't you put the scarf back and forget the whole thing?" What would you do?

   1. Hope that the girl is sincere and allow her to return the scarf without pressing charges.
   2. Let the girl go but tell her that you will call her parents.
   3. Arrest her because it is the law.
   4. Arrest the girl to impress her in the seriousness of her act; however, after making the record, reprimand her and release her to the parents.
   5. Other (specify):

6. A well-dressed woman approaches you while you are on duty. "Officer," she says, "I need your help. I just bought this transistor radio and now it doesn't work. Will you accompany me to the store and help me get it repaired or get a new one or get my money back?" What would you do?

   1. Accompany the woman to the store in the hope that the consumer's gripes can be corrected.

2. Ignore the woman - she is evidently a kook.
3. Suggest to the woman that she go to the store's complaint department on the fourth floor.
4. Sympathize with the woman but explain that her complaint is not a police matter.
5. Other (specify):

## *Life...Outside: Probation, Parole, Community Control*

### INTRODUCTION

Students will explore alternatives to incarceration and the role of community supervision in the Florida Department of Correction's public safety mission.

### OBJECTIVES

As a result of this lesson, students will be able to:

1. Differentiate among community supervision alternatives.
2. Examine the effect of release on the offender and the victim.
3. Identify benefits of community supervision.
4. Explore new alternatives to incarceration.

### TIME REQUIRED

one or two class periods

### MATERIALS

Handout A: Probation, Parole, Community Control
Handout B: The Release of Marlene Brown

### PROCEDURE

1. With crime rates escalating and prison overcrowding becoming more common, alternatives to imprisonment are a necessity. Any alternatives must balance the benefit to the offender with public safety to insure protection of society. Using Handout A, invite a probation officer to help students differentiate among existing community supervision alternatives.

2. Define **community supervision** for students. Distribute Handout A. Ask students if the alternatives to incarceration listed in the chart would be appropriate for all offenders. Why/why not? What types of offenders would be best served by **probation** or community control?

3. How do community supervision alternatives benefit society? Have a probation officer or a community control officer facilitate this discussion.

   Have the Community Control Officer bring an electronic monitoring device to class for students to try on. Describe its use and its benefits in "controlling" the offender. Ask students which they would prefer -- prison or house arrest. Why? Discuss privacy issues.

4. Ask students if they can think of any other workable alternatives to imprisonment. Assign them to small groups and have them generate such alternatives. Their program must protect the public and be a legitimate alternative to prison. It may be a new program or a variation on an existing one. In developing this, the groups will need to be specific about the type of offender to be targeted, i.e., nonviolent, youthful, with employment and with dependents might be one example. Ask each group to present its proposal in class. Groups must explain both the benefits and the risks of their ideas.

5. Follow this activity with Handout B: **"The Release of Marlene Brown"**.

   Randomly assign students to small groups. Each group should select a facilitator, a recorder, and a reporter. Have each group read Handout B: "The Release of Marlene Brown". Then ask them to discuss the following things. The group reporter will present the group's responses to the class:

Discussion Questions

1. What new, positive challenges await Marlene after release? (Examples: resuming her role as a mother; having greater, although not absolute, freedom; ability to choose what to wear, what to eat; etc.)
2. What problems and decisions will Marlene face as she begins her life outside? (Examples: personal rejection, difficulty in finding employment, making friends and repaying financial debts, restrictions on her freedom, day care for her child, stress, etc.)
3. Do you think Marlene will face discrimination upon her release? If so, in what ways? (Examples: employment, housing, relationships, etc.)
4. How will society benefit from Marlene's release and successful reintegration into the community? (Examples: resume her responsibility as a taxpayer, repay financial debts to society, reduce taxpayers' financial burden of incarceration, etc.)
5. How might Marlene's release affect the victim? (Examples: victim may be fearful, victim will receive restitution, etc.)
6. What special conditions of probation might help Marlene in a successful reintegration process? (Examples: continue alcohol-abuse counseling; participate in support groups; receive family counseling; etc.)

6. After students have grappled with these questions in their small groups, discuss the groups' findings, focusing on one question at a time. Invite a probation officer to help facilitate the discussion and offer additional insight.

## ENRICHMENT

Ask students: if they were small business owners, would they hire a person who had been convicted of a felony? Why/why not?

Invite the personnel director of the school board to share copies of the district's application for employment, specifically highlighting the question "Have you ever been convicted of a felony?" . Discuss how this might affect the employer's decision to hire the applicant.

With the help of the personnel director, review the district's procedures for hiring staff. Use the district's interview questions for a clerical position and role play the Marlene Brown scenario as she has just been released from prison and is trying to find a job with the school board. Group students by twos and go through the process. One student will be the Personnel Manager, the other the recently released inmate.

Have the Personnel Director debrief this class exercise. Did the offender tell the truth in the interview? Why/why not? What responsibility does the district have if this person is the most qualified person for the job? Can the district legally discriminate against Marlene because she is a convicted felon?

Would you want to be friends with Marlene? Have students write a one-page paper on how they might feel if one of their friends had been convicted of a felony and was about to be released from prison.

## EVALUATION

The lesson activities contain adequate opportunities for writing and performance (as well as debriefing) so that the teacher and students may have feedback to assess learning.

## CURRICULUM INTEGRATION

Interview science teachers for information on new technology to aid in the control/supervision of persons on "community control." Write up your report on how these new technologies might assist in Marlene Brown's case.

Supervision is common in society. Interview English, science, mathematics and social studies teachers about who supervises them in school and in their subject fields.

Ask the Business teacher how employers "control" their employees.

Ask the computer teacher to help students investigate the Department of Corrections Homepage.

For convicted felons, community control is designed to: (1) keep the community safe (insure that the controlee is less likely to break the law again and again), and (2) to aid the controlee in a successful, lawful reintegration into the community of law-abiding citizens. What is the supervision of teachers designed to accomplish? How much depends on teacher self-supervision (self control)? What about the case of criminals under community control - how much of their success or failure depends upon self-supervision or self control? Should anyone else be held accountable for the criminal's or parolee's behavior?

How does society control scientists, mathematicians, historians, English scholars, and social scientists to (a) do their own work and (b) to tell the truth as they see it? In other words, what is their "community control"?

*Reprinted from Life Inside, a video and curriculum developed by the Florida Department of Corrections and The Florida Law Related Education Association. Edited to fit this format.*

## HANDOUT A

### Probation

Court ordered.

Conditions of supervision include rules of conduct.

May follow incarceration or be in lieu of incarceration.

Special conditions may be imposed.

Under jurisdiction of sentencing court.

If violation of probation occurs, Probation Officer submits violation of probation report to court.

Court may issue arrest warrant; offender is granted formal court hearing with counsel, witnesses, etc.

Probation may be revoked, offender may be assigned a period of community control, return to prison, etc.

### Parole

Essentially phased out in Florida; only inmates imprisoned before 1984 may leave prison on parole.

Court loses all control over inmate once the inmate leaves prison.

Under jurisdiction of Florida Parole Commission (FPC).

FPC determines when violation of probation has occurred and if offender returns to the Department of Corrections.

### Community Control

Most stringent form of community supervision.

"House Arrest" - serving prison sentence at home.

Severely limits offender's freedom.

Strict and frequent contact standards with Community Control Officer.

Requires offender to work and pay restitution.

Restricted to house except to go to work or to take part in approved activity.

Maintain hourly log.

Perform community service work.

Under surveillance.

May be fitted with electronic monitoring device.

## HANDOUT B

### The Release of Marlene Brown

It's 7:00 a.m. at the Jefferson County Correctional Center. Marlene Brown is anxious because it is her release day. She has spent at least 2 ½ years in prison for aggravated battery. Marlene had a severe drinking problem when she committed her crime.

To prepare for this day Marlene has received personal counseling from her institution's Release Assistance Officer covering some of the problems and decisions she will face outside.

Today Marlene will receive a check for $100 from the State of Florida and a bus ticket to Tampa where her family lives. Since Marlene will be on probation, she must report to her probation officer within 72 hours of her release from prison. If she fails to do so, an arrest warrant will be issued for her.

Many people will be affected by Marlene's release. Marlene and her 4 ½ year old daughter will live temporarily with her mother and father. Her family is waiting at the bus station for her arrival. She is fortunate to have family supporting her during her reintegration into life outside; that is a luxury not all inmates have.

By law Marlene's victim was notified of her release 60 days in advance. Her victim, Sandra, received permanent scarring as a result of the battery.

Marlene's release means a host of new responsibilities for her. She has over $5,000 to pay in restitution to the victim, court costs, public defender's fees, and hospital fees. She will again take up her role as a mother and will assume the workloads of part-time student and employee. Marlene faces many new challenges outside.

"I have paid my debt to society," Marlene says. "Now I can start making up for what I did to my family...I NEVER want to go back to prison again!"

# *Mathematics and Its Involvement in a D.U.I. Case*

by Wayne Parrish, Martin County High School, Stuart, FL

## INTRODUCTION

A crime scene analyst has taken measurements of skip marks at the scene of an accident involving a pedestrian struck by a defendant accused of DUI. Breathalyser tests were taken immediately at the accident site.

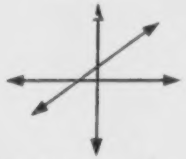
Experiments on similar vehicles and road conditions show that the car takes approximately 87.5 feet to stop at a speed of 40 mph and 36.5 feet to stop at a speed of 25 mph. Measurements of the skid marks taken at the accident scene indicate that the defendant's car stopped in a little over 500 feet (502.5). How fast was he traveling?

The defendant, claiming to have had only 5 drinks in the past three hours, had a blood alcohol % level at .14. His weight is 160 pounds. Tests done on citizens with his same build indicate that 3 drinks cause a blood alcohol level of .07, 4 drinks a .09 level, and 5 drinks a .12 level. If one is able to verify the time the defendant began drinking—in fact 5 hours prior to the accident, can you predict the number of drinks consumed prior to the accident?

Both of these events demonstrate some of the uses for mathematics at the crime scene. A crime scene analyst must be able to decide what type of function he is dealing with and know how to derive equations for data he has collected.

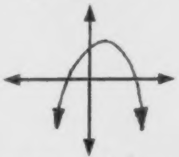
Graphs for some common types of equations will be pictured. Choosing appropriate domain and range and scales for each type of graph is vitally important. Generally a sketch of 3 or more points is all that is necessary to decide what kind of function is involved. Observe!

LINEAR



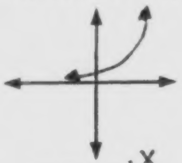
$y = ax + b$

QUADRATIC



$y = ax^2 + bx + c$

EXPONENTIAL



$y = a \cdot b^x$

Equations are obtained quickly and painlessly using a graphing calculator. Depressing STAT, one enters the "x" and "y" values under L1 and L2, respectively. It is your responsibility to predict the type of function. Use the graphs of general functions pictured earlier and your graphed points to make this prediction.

Once the data is entered and one is prepared to predict the variety of function involved:

1) depress the STAT key,
2) right arrow to the "CALC" mode,
3) choose the number of the appropriate function regression type,
4) depress ENTER

The screen will now display the general form of the functional type chosen and the specific values for a, b, c, etc. (Note: Most functions upon calculating their specific equation will display an "r" value, the correlation coefficient for that particular function. A "perfect fit" is indicated if the "r" value is either 1 or -1. Less reliable equations will be in the ±.9 range. Reliability of results is valid only if the correlation coefficient, "r" is very near to ±1.

EXERCISE

1) Predict what type of functions fit data in the DUI case
    a) skid marks
    b) blood alcohol levels
2) Using a graphing calculator determine actual functions involved.
3) How might these functions be used to make predictions in this case?
4) Develop other situations that might describe all the major types of functions.

CURRICULUM INTEGRATION

Get the school resource office to discuss "Driving Under the Influence" and what this means under the laws of Florida. Distinguish this from the popular conception of "drunk driving." Then, the school resource office should explain the science and mathematics of investigations on D.U.I. situations in your community. The lesson above is but one portion of such an investigation.

Get the science teachers to cooperate to explain the science behind blood alcohol levels and breathalyser testing at the local police or county sheriff's department.

# *Mock Florida Senate Criminal Justice Committee Hearing*

by Cynthia Brendle, Zephyrhills High School, Zephyrhills, FL

## INTRODUCTION

Permanent standing committees and subcommittees are authorized to invite public officials, employees, and private individuals to appear before the committees or subcommittees to submit information. This activity will simulate a Florida Senate committee hearing.

## OBJECTIVES

As a result of this lesson, students will be able to:

1. Describe the process a bill goes through to become a law.
2. Analyze a bill.
3. Explain the procedure of a Senate Committee hearing.
4. Conduct a mock Florida Senate hearing.

## TIME REQUIRED

two or three class periods

## MATERIALS

Handout A: How a Bill Becomes a Law
Handout B: Analyzing a Bill
Handout C: Florida Senate Hearing Procedures
Handout D: Committee Appearance Record Form
Handout E: Senate Staff Analysis and Economic Impact Statement Form
Handout F: Senate Committee Amendment Form
Handout G: How a Senate Bill Becomes a Law (chart)
Handout H: General Bill H301 - Teachers' Protection Act of 1996 (includes bill history and full text)

## PROCEDURES

1. Describe the process a bill goes through to become a law. See Handout A: "How a Bill Becomes a Law".
2. Discuss the process of analyzing a bill. Using this process, analyze the proposed bill. See Handout B: "Analyzing a Bill".
3. Explain the committee hearing process. See Handout C: "Senate Committee Hearing Procedures".
4. Conduct a mock senate hearing. Divide the class into seven groups. One group will be the committee and the others will be the concerned citizen groups:
    a. Law Enforcement Organization,
    b. Children's Advocate Program,
    c. Victim's Rights Group,
    d. Parent Teacher Organization,
    e. Florida Public Defenders Coordination Office, and
    f. Florida Association of Prosecuting Attorneys.
5. Each group should come up with its own "message" for the committee. The group members need to keep in mind the basic beliefs each group would represent. They should choose a spokesperson(s).
6. Conduct the hearing.
7. Discuss the activity in a large group setting. Is the system effective? Why or why not? Who actually holds the power in this process? Can you think of another way to pass legislation?

EVALUATION
Student performance in writing sample bills and in the conduct of mock a Florida Senate Hearing affords teacher ample opportunities to assess student learning on this lesson.

CURRICULUM INTEGRATION
Have students write a bill on some environmental issue involving science and then work with science teachers to prepare testimony to be delivered at the Florida Senate Committee Hearing.

Develop a graphic display (posters, overhead transparencies) for use in testimony at the Florida Senate Committee Hearing on the bill to support your spoken words.

Students should write letters to the editor or letters to the "imaginary" State Senators in support of the mock bill which will be the subject of the Senate Hearing.

The computer/technology teacher might teach students how to track bills in the Florida legislature using the Internet and e-mail in preparation for legislative sessions.

## HANDOUT A

### How a Bill Becomes a Law In the Senate

1. Ideas for bills can come from a Senator, Senate Aides, committee staffers or officials in state agencies. But the original idea often comes from an ordinary citizen.

2. A Senator then takes the idea and turns it into a bill. To do this he/she has two choices:

    1) Contact the appropriate committee with the idea.

    2) Take the idea to the Senate Bill Drafting Committee who will then take the idea and draft it into a preliminary draft.

3. The preliminary draft will then be filed with the Secretary of the Senate's office. The President of the Senate looks at the bill and refers it to a relevant committee. It can be referred to several committees depending on its importance and visibility. (It is not good to be referred to too many committees.)

4. The bill is then in committee. There it can be changed, amended, or attached to other bills. The first step in committee is to have the bill analyzed, using a Staff Analysis Form. The next step is a public hearing. At this hearing the public is given a chance to make its opinions known. After the debate, the committee votes on the amendments and then votes on the bill.

5. After the vote, the bill then goes to the Rules Committee where it is assigned a priority. Usually a bill must make it to the "special order calendar" to be heard. The "special order calendar" is a roster of bills that will be heard on any particular day. If the rules chairman does not like a bill, it is likely to die.

6. Once on the special order calendar, the bill is heard by the full Senate. The bill must be read three times on separate days, unless this rule is waived by a two-thirds vote. It is read by the title only. The bill is debated and amended, if necessary and then voted on.

7. Once the bill passes the Senate, it must then go through the same process in the House. If identical versions are passed, it goes directly to the governor. But if there are differences, then the committee is appointed to work out a compromise. The most controversial issues end up in conference committees.

The most important fight is the one over the budget. Once a compromise is agreed upon, it must again be approved by the House and Senate. Conference committee reports cannot be amended: they must be either accepted or rejected.

8. The bill then goes to the governor who has three choices: veto, sign, or not sign. The House and Senate can override a veto with a two-thirds vote, but this seldom happens.

## HANDOUT B

### Analyzing a Bill

When a bill is received by the committee, it is analyzed by the staff of that committee using the Staff Analysis Form. It has the sponsor's name and bill number at the top of the form. It takes approximately two days to do the original analysis. There are about 3,000 bills per session. Each house has approximately 1,500 bills per session. The Senate bills are even-numbered, and the House bills are odd-numbered. The areas that are considered in the analysis are:

1. Summary - This is simply a summary of the bill; as bills can be quite lengthy, this is very important.

2. Present situation - What is the situation on this matter at this time? How is it working under the present system? What are the problems in this area?

3. Effect of the proposed changes - What impact will the changes make?

4. Constitutional issues - Will this change impact the constitutional rights of Florida's citizens?

5. Economic impact - This includes the following areas:

    a. government - all government agencies that might be impacted are asked for recommendations.
    b. private sector
    c. taxes
    d. mandates

6. Technical deficiencies - Check written language.

7. Related issues.

8. Amendments that are passed.

After the committee hearing, the staff analysis will be updated to reflect any committee changes.

# HANDOUT C

## Florida Senate Committee Hearing Procedures

The bill has then been drafted and analyzed.

1. The committee chairperson decides if the committee will "hear" it. If the chairperson decides the bill merits a hearing, he/she will then schedule it for one of the committee's weekly meetings.

2. The date of the hearing is then published or advertised.

3. On the day of the hearing, anyone wishing to speak must fill out a speaker's card. These are then given to the chairperson who will announce the order speakers will be heard. Speakers are usually heard in pro-con-pro-con order, but they can be ordered any way the chairperson wants them to be. He/she will say, "I have cards from (number) people." He/she will then announce the order in which they are to speak. Generally the chair will state that if any testimony will repeat what has already been said, it would expedite matters if that person would waive his/her time to speak.

4. Speakers will testify in the order announced. The Committee members may question them as they testify. Before the Committee members address the speaker, they must ask and receive permission to speak from the chairperson.

5. The hearing will end at the specified time; they do not run past the allotted time.

6. After the testimony is over, the Senators will debate the bill and ask questions. During this debate amendments can be offered. These amendments must be drafted before the hearing or handwritten during the hearing itself.

7. The committee will then vote on the amendments followed by a vote on the bill. If there are a number of amendments, the chairperson may ask the sponsor is he/she wishes to offer a bill co-sponsored by the committee and the sponsor. If so, the bill would then be sponsored by both.

## HANDOUT D

### Committee Appearance Record
(Submit to Committee Chairman or Secretary)

__________________ (date)

__________________ (Bill No.)

Name ____________________________________________

Address ____________________________________________

Representing ____________________________________________

Lobbyist (Registered with Senate) YES ________ NO ________

Speaking: FOR ________ AGAINST ________ INFORMATION ________

Subject ____________________________________________

If State Employee... Time: from ________ __.m. to ________ __.m.

(State employees are required to file the first copy of this form with Committee Chairman unless appearance is requested by chairman as a witness or for informational purposes.)

*The Florida Law Related Education Association ◆ 1625-B Metropolitan Circle, Tallahassee, FL 32308 ◆ (904) 386-8223*

## HANDOUT E

### Senate Staff Analysis and Economic Impact Statement

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

DATE: REVISED: _____ _____ _____ _____

SUBJECT:

| | ANALYST | STAFF DIRECTOR | | REFERENCE | ACTION |
|---|---|---|---|---|---|
| 1. | ________ | ________ | 1. | ________ | ________ |
| 2. | ________ | ________ | 2. | ________ | ________ |
| 3. | ________ | ________ | 3. | ________ | ________ |
| 4. | ________ | ________ | 4. | ________ | ________ |

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I. SUMMARY:

This bill substantially amends, creates, or repeals the following sections of the Florida statutes:

II. PRESENT SITUATION:

III. EFFECT OF PROPOSED CHANGES:

IV. CONSTITUTIONAL ISSUES:

- A. Municipality/County Mandates Restrictions:
  None.
- B. Public Records/Open Meetings Issues:
  None.
- C. Trust Funds Restrictions:
  None.
- D. Other Constitutional Issues:

V. ECONOMIC IMPACT AND FISCAL NOTE:

- A. Tax/Fee Issues:
  None.
- B. Private Sector Impact:
  None.
- C. Government Sector Impact:

VI. TECHNICAL DEFICIENCIES:

None.

VII. RELATED ISSUES:

None.

VIII. AMENDMENTS:

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

## HANDOUT F

### Senate Committee Amendment

SB ______ No. __________
HB ______ (favorably)

The Committee on ______________________________ recommended the following amendment which was moved by Senator __________________ and adopted:
and failed:

1 Amendment

2

3 On page __________, line ___________, strike

4 ____________________________________________________________

5 ____________________________________________________________

6 ____________________________________________________________

7 ____________________________________________________________

8 and insert:

9 ____________________________________________________________

10 ____________________________________________________________

11 ____________________________________________________________

12 ____________________________________________________________

13 ____________________________________________________________

14 ____________________________________________________________

15 ____________________________________________________________

CODING: Words in ~~struck through~~ type are deletions from existing law; words underlined are additions.

**************************************************************************

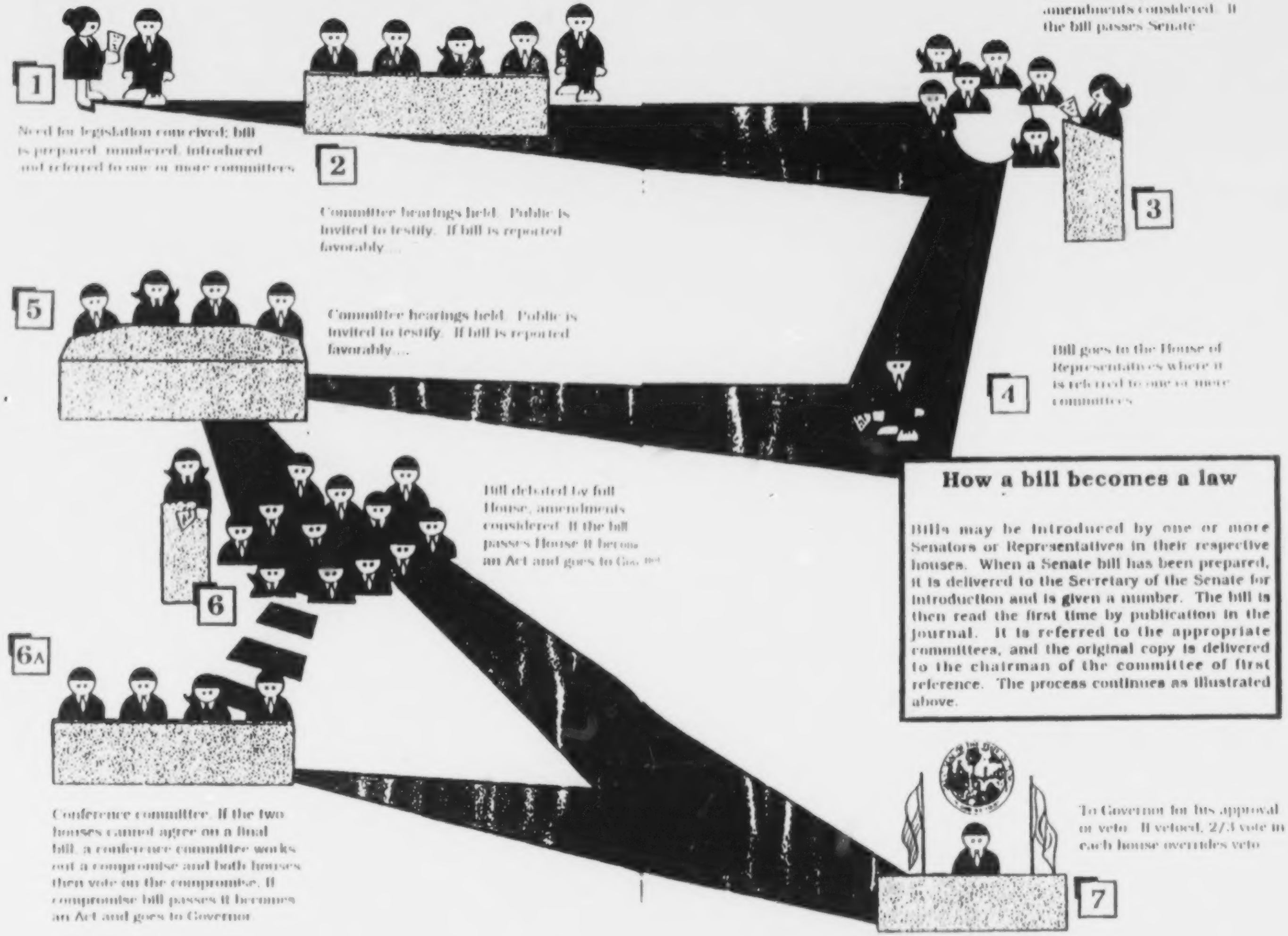
* Amendment No. _______, taken up by committee: Adopted ____ *
* Offered by ___________________________________ Failed ____ *

**************************************************************************

(Amendment No. _________ Adopted ______ Failed ______ Date: ___/___/___ )

## HANDOUT G

# How a Senate Bill Becomes a Law



1 Need for legislation conceived; bill is prepared, numbered, introduced and referred to one or more committees.

2 Committee hearings held. Public is invited to testify. If bill is reported favorably....

3 Bill debated by full Senate, amendments considered. If the bill passes Senate

4 Bill goes to the House of Representatives where it is referred to one or more committees

5 Committee hearings held. Public is invited to testify. If bill is reported favorably....

6 Bill debated by full House, amendments considered. If the bill passes House it becomes an Act and goes to Governor

6A Conference committee. If the two houses cannot agree on a final bill, a conference committee works out a compromise and both houses then vote on the compromise. If compromise bill passes it becomes an Act and goes to Governor.

7 To Governor for his approval or veto. If vetoed, 2/3 vote in each house overrides veto

### How a bill becomes a law

Bills may be introduced by one or more Senators or Representatives in their respective houses. When a Senate bill has been prepared, it is delivered to the Secretary of the Senate for introduction and is given a number. The bill is then read the first time by publication in the journal. It is referred to the appropriate committees, and the original copy is delivered to the chairman of the committee of first reference. The process continues as illustrated above.

## HANDOUT H

### General Bill H301: Teachers' Protection Act of 1996

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GENERAL BILL/CS by Education; Lacasa; Chestnut; Garcia; (CO-SPONSORS) Posey; Fasano; Heyman; B. Saunders; Thrasher; Andrews; Stabins; Morroni; Lynn; Betancourt; Morse; Rodriguez-Chomat; Starks; Healey; Culp; Eggelletion; Ziebarth.

(Similar SB2440, Compare CS/3RD ENG/ HB0341, CS/2ND ENG/ HB0459, HB1367, SB2178)

Teachers' Protection Act of 1996 (THIS BILL COMBINED IN CS/H459, 931, 1407, CS/301) requires school board to adopt rules for expulsion or assignment to second chance school for at least 1 year of student convicted of forcible felony involving use or threat of physical force or violence against an educator; requires notice in code of student conduct re such expulsion or assignment to second chance school, etc.

Amends 230.23, 231.06, 232.25,.26. EFFECTIVE DATE: 10/01/96.

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### Bill History

| | |
|---|---|
| 12/01/95 | H Prefiled |
| 12/14/95 | H Referred to Education; Appropriations |
| 12/18/95 | H Subreferred to Programs & Services Subcommittee |
| 01/22/96 | H On Subcommittee agenda-- Programs & Services, 02/06/96, 2:40 pm, 214C |
| 02/06/96 | H Subcommittee Recommendation: PCS; On Committee agenda-- Education, 02/20/96, 1:30 pm, 314-HOB |
| 02/20/96 | H Comm. Action: CS by Education |
| 03/05/96 | H Introduced, referred to Education; Appropriations -HJ 00030; Subreferred to Programs & Services Subcommittee; Subcommittee; Recommendation: PCS; Comm. Action: CS by Education -HJ 00240 |
| 03/11/96 | H Removed from Appropriations; awaiting CS reference; CS read first time on 03/11/96 -HJ 00237; Pending review of CS under Rule 8.4 |
| 03/18/96 | H CS referred to Criminal Justice; Appropriations -HJ 00304 |
| 03/19/96 | H On Committee agenda-- Criminal Justice, 03/21/96, 9:00 am, 214C |
| 03/21/96 | H CS combines this bill with 459, 931 & 1407; Comm. Action: CS by Criminal Justice -HJ 00523 |
| 04/02/96 | H Original bill laid on Table, refer to combined CS/HB 459 (Ch. 96-293); See also CS/HB 341 (Ch. 96-246) |

## Bill Information

(words underlined are additions; words ~~stricken~~ are deletions)

A bill to be entitled "Teachers' Protection Act of 1996":

An act relating to crimes against educators; creating the "Teachers' Protection Act of 1996"; providing legislative intent; amending s.230.23, F.S., relating to powers and duties of the district school board; requiring the school board to adopt rules for expulsion for at least 1 year of a student convicted of a forcible felony involving the use or threat of physical force or violence against an educator, as defined; requiring notice in the code of student conduct relating to such expulsion; amending s.231.06, F.S., relating to assault or battery upon district school board officials or employees; providing enhanced penalties for committing or attempting to commit a forcible felony involving the use or threat of physical force or violence against an educator; amending s.232.26, F.S.; providing for recommendation by the principal relating to expulsion of a student convicted of a forcible felony against an educator; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Short title.--This act shall be known and may be cited as the "Teachers' Protection Act of 1996."

Section 2. Legislative intent.--

(1) The Legislature recognizes and declares that, with the rising incidence of crime, especially juvenile crime, teachers and other educators are increasingly at risk of becoming the victims of those who perpetrate crimes of violence. It is the purpose of this act to protect the safety and welfare of educators whose professional duties in the classroom make them especially vulnerable to violent crimes committed by juvenile offenders and other offenders. To accomplish this purpose, the Legislature intends to deter classroom violence against teachers and other educators by enhancing the penalties for violent felonies committed against educators.

(2) The Legislature finds that criminal violence by a student against an educator represents such a serious offense and such an egregious type of disruptive behavior that special disciplinary measures, in addition to criminal penalties, are warranted against the student, including denial of the privilege to attend regular instructional programs. The Legislature recognizes that a student's right and

obligation to attend school must not be construed to permit a violent juvenile offender to endanger the personal safety and general welfare of teachers or others with whom the student comes in contact at school. It is the purpose of this act to facilitate the removal from the classroom of students who perpetrate violence against educators, not only to protect the educators themselves, but also to prevent interference with the educational process for other students. To accomplish this purpose, the Legislature intends to require school boards to adopt rules providing that any student convicted of a violent felony against an educator must be expelled for a minimum period of 1 year.

Section 3. Paragraphs (c) and (d) of subsection (6) of section 230.23, Florida Statutes, are amended to read:

230.23 Powers and duties of school board.--The school board, acting as a board, shall exercise all powers and perform all duties listed below:

(6) CHILD WELFARE.--Provide for the proper accounting for all children of school age, for the attendance and control of pupils at school, and for proper attention to health, safety, and other matters relating to the welfare of children in the following fields, as prescribed in chapter 232.

(c) Control of pupils.--

1. Adopt rules and regulations for the control, discipline, in-school suspension, suspension, and expulsion of pupils and decide all cases recommended for expulsion. Such rules shall clearly specify disciplinary action that shall be imposed if a student possesses alcoholic beverages or electronic telephone pagers or is involved in the illegal use, sale, or possession of controlled substances, as defined in chapter 893, on school property or while attending a school function. School boards are encouraged to include in these provisions alternatives to expulsion and suspension such as in-school suspension, assignment to second chance schools, and guidelines on identification and referral of students to alcohol and substance abuse treatment agencies. To the extent that funding is available, it is the intent of the Legislature that all persons of compulsory school age who have not received a high school diploma be placed in an appropriate program which may include, but not be limited to, traditional schools, second chance schools jointly provided by the district school board and the Department of Juvenile Justice, disciplinary schools, and other alternatives to expulsion programs. Suspension hearings are exempted from the provisions of chapter 120. Expulsion hearings shall be governed by s.120.57(2) and are exempt from s. 286.011. However, the pupil's parent or legal guardian must be

given notice of the provisions of s. 286.011 and may elect to have the hearing held in compliance with that section. The school board shall have the authority to prohibit the use of corporal punishment, provided that the school board adopts or has adopted a written program of alternative control or discipline, which may include, but is not limited to, timeout rooms, in-school suspension, student peer review, parental involvement, and other forms of positive reinforcement, such as classes on appropriate classroom behavior. Notwithstanding any provision of law to the contrary, the district school board shall adopt rules providing that any student convicted of a forcible felony involving the use or threat of physical force or violence against an educator, as described in s. 231.06(2), shall be expelled for a minimum period of 1 year.

2. Have the authority as the school board of a receiving school district to honor the final order of expulsion of a student by another school board in accordance with the following procedures:

    a. A final order of expulsion shall be recorded in the records of the receiving school district.

    b. The expelled student applying for admission to the receiving school district shall be advised of the final order of expulsion.

    c. The superintendent of schools of the receiving school district may recommend to the school board that the final order of expulsion be waived and the student be admitted to the school district, or that the final order of expulsion be honored and the student not be admitted to the school district. If the student is admitted by the school board, with or without the recommendation of the superintendent, the student may be placed in an appropriate educational program at the direction of the school board.

(d) Code of student conduct.--Adopt a code of student conduct for elementary schools and a code of student conduct for secondary schools and distribute the appropriate code to all teachers, school personnel, students, and parents or guardians, at the beginning of every school year. A district may compile the code of student conduct for elementary schools and the code of student conduct for secondary schools in one publication and distribute the combined codes to all teachers, school personnel, students, and parents or guardians at the beginning of every school year. Each code of student conduct shall be developed by the school board; elementary or secondary school teachers and other school personnel, including school administrators; students; and parents or guardians. The code of student conduct for elementary schools shall parallel the code for secondary schools. Each code shall be organized and written in language which is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory councils, and parent and teacher associations. Each code shall be based on the rules governing student conduct and discipline adopted by the school board and be made available in the student handbook or similar publication. Each code shall include, but not be limited to:

1. Consistent policies and specific grounds for disciplinary action, including in-school suspension, out-of-school suspension, expulsion, any disciplinary action that may be imposed for the possession or use of alcohol on school property or while attending a school function or for the illegal use, sale, or possession of controlled substances as defined in chapter 893.

2. Procedures to be followed for acts requiring discipline, including corporal punishment.

3. An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.

4. Notice that illegal use, possession, or sale of controlled substances, as defined in chapter 893, or possession of electronic telephone pagers, by any student while such student is upon school property or in attendance at a school function is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

5. Notice that the possession of a firearm, a knife, a weapon, or an item which can be used as a weapon by any student while the student is on school property or in attendance at a school function is grounds for disciplinary action and may also result in criminal prosecution.

6. Notice that violence against any school district personnel by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed. Such notice shall also specify that a student convicted of a forcible felony involving the use or threat of physical

force or violence against an educator as described in s. 231.06(2) shall be expelled for a minimum period of 1 year.

7. Notice that violation of school board transportation policies, including disruptive behavior on a school bus or at a school bus stop, by a student is grounds for suspension of the student's privilege of riding on a school bus and may be grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

8. Notice that violation of the school board's sexual harassment policy by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

9. Policies to be followed for the assignment of violent or disruptive students to an alternative educational program.

10. Notice that any student who is determined to have brought a firearm, as defined in 18 U.S.C. s. 921, to school, any school function, or on any school-sponsored transportation will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred for criminal prosecution. School boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. Superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the school board to modify the requirement if determined to be in the best interest of the student and the school system.

Section 4. Section 231.06, Florida Statutes, is amended to read:

231.06 Assault or battery upon district school board employee; penalties; enhanced penalties for forcible felonies against educators.--

(1) Whenever any student, parent, or other person commits an assault or battery upon any elected official or employee of a school district, the Florida School for the Deaf and the Blind, a university developmental research school, or a private elementary or secondary school and the elected official or employee is on school property or is away from school property on official school business, the offense for which the person is charged shall be classified:

(a)~~(1)~~ In the case of an assault, as a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) ~~(2)~~ In the case of a battery, as a felony of the third degree, punishable as provided in s. 775.082, s.775.083, or s. 775.084.

(2) (a) A person who commits a forcible felony, as defined in s. 776.08, involving the use or threat of physical force or violence against an educator commits a crime which shall be reclassified as follows:

1. In the case of a life felony, to a capital felony.
2. In the case of a felony of the first degree, to a life felony.
3. In the case of a felony of the second degree, to a felony of the first degree.
4. In the case of a felony of the third degree, to a felony of the second degree.

(b) For purposes of this subsection, the term "educator" means and includes instructional personnel,administrative personnel, and teacher aides as defined in s.228.041(9), (10), and (23), respectively.

Section 5. Paragraph (c) of subsection (1) of section 232.26, Florida Statutes, is amended to read:

232.26 Authority of principal.--

(1) (c)The principal or the principal's designee may recommend to the superintendent the expulsion of any student who has committed a serious breach of conduct, including, but not limited to, willful disobedience, open defiance of authority of a member of his or her staff, violence against persons or property, or any other act which substantially disrupts the orderly conduct of the school. Any recommendation of expulsion shall include a detailed report by the principal or the principal's designated representative on the alternative measures taken prior to the recommendation of expulsion. Notwithstanding any provision of law to the contrary, the principal or the principal's designee shall recommend to the superintendent the expulsion for a minimum period of 1 year of any student convicted of a forcible felony involving the use or threat of physical force or violence against an educator, as described in s. 231.06(2).

(d) The principal or the principal's designee shall include an analysis of suspensions and expulsions in the annual report of school progress.

(2) Suspension proceedings, pursuant to rules of the State Board of Education, may be initiated against any pupil enrolled as a student who is formally charged with a felony, or with a delinquent act which would be a felony if committed by an adult, by a proper prosecuting attorney for an incident which allegedly occurred on property other than public school property, if that incident is shown, in an administrative hearing with notice provided to the parents or legal guardian or custodian of such pupil by the principal of the school pursuant to rules promulgated by the State Board of Education and to rules developed pursuant to s. 231.085, to have an adverse impact on the educational program, discipline, or welfare in the school in which the student is enrolled. Any pupil who is suspended as the result of such proceedings may be suspended from all classes of instruction on public school grounds during regular classroom hours for a period of time, which may exceed 10 days, as determined by the superintendent.

Such suspension shall not affect the delivery of educational services to the pupil, and the pupil shall be immediately enrolled in a daytime alternative education program, or an evening alternative education program, where appropriate. If the pupil is not subsequently adjudicated delinquent or found guilty, the suspension shall be terminated immediately. If the pupil is found guilty of a felony, the superintendent shall have the authority to determine if a recommendation for expulsion shall be made to the school board; however, such suspension or expulsion shall not affect the delivery of educational services to the pupil in any residential or nonresidential program outside the public school. Any pupil
who is subject to discipline or expulsion for unlawful possession or use of any substance controlled under chapter 893 shall be entitled to a waiver of the discipline or expulsion:

(a) If the pupil divulges information leading to the arrest and conviction of the person who supplied such controlled substance to him or her, or if the pupil voluntarily discloses his or her unlawful possession of such controlled substance prior to his or her arrest. Any information divulged which leads to such arrest and conviction is not admissible in evidence in a subsequent criminal trial against the pupil divulging such information.

(b) If the pupil commits himself or herself, or is referred by the court in lieu of sentence, to a state-licensed drug abuse program and successfully completes the program.

(3) Any recommendation for the expulsion of a handicapped student shall be made in accordance with the rules promulgated by the State Board of Education.

Section 6. This act shall take effect October 1, 1996.

### HOUSE SUMMARY

Creates the "Teachers' Protection Act of 1996." Provides legislative intent. Requires the school board to adopt rules for expulsion for at least 1 year of a student convicted of a forcible felony involving the use or threat of physical force or violence against an educator, as defined. Requires notice in the code of student conduct relating to such expulsion. Provides enhanced penalties for committing or attempting to commit a forcible felony involving the use or threat of physical force or violence against an educator. Provides for recommendation by the principal relating to expulsion of a student convicted of a forcible felony against an educator.

# *Mock Trial: State v. Starr*

by National Institute for Citizen Education in the Law (NICEL)

## INTRODUCTION

This lesson teaches students the main steps in the criminal trial process in a high-interest, participatory manner. Each student has a part to play. The mock trial may be repeated with students switching roles, to see if the dynamics of the trial process (and the outcomes) vary with the differing skill levels, personalities, and group dynamics of the role players.

## OBJECTIVES

1. To identify key roles and responsibilities in the adult trial process.
2. To analyze a case in preparation for a mock trial.
3. To present a mock trial.

## TIME REQUIRED

one or two class periods

## MATERIALS:

blackboard/chalk
Handout A: Steps in a Trial
Handout B: *State v. Starr*
A resource person would be a valuable addition to this lesson.

## PROCEDURES

1. The following mock trial activity could be conducted in an actual courtroom if permission is granted. Have students dress for their parts to lend to the authenticity of the exercise.
2. This lesson may be conducted over two class periods. The first class should cover the steps in an adult trial and preparation for the roles. The mock trial will be conducted during the following class. (Have substitutes prepare in case the student is not there.)
3. Before you begin the lesson, you should research the answers to the following questions. The answers to these questions will vary depending on the jurisdiction where you live. A valuable resource in finding the answers includes your local bar association, or the county court itself.
    - A. How are judges chosen? Do judges have to be lawyers? What do judges do?
    - B. What do lawyers do in court? What do they do when not in court? How do you become a lawyer?
    - C. What is a bailiff? What kind of training does a person need to become a bailiff?
    - D. What does the court clerk do? How do you become a court clerk? What kind of education and training is needed?
    - E. What do juries do? How are they chosen? Are juries paid? How many members are on a jury?
4. The Case of *State v. Starr*. Distribute Handout A - "Steps in a Trial" and go over with the students until they are sure of the process.
5. After the students understand the procedures, read the case to them (Handout B).
6. Brainstorm the facts of the case and list them on the board.
7. Decide on the issues and the charges.
8. Break students up into the following groups to begin work on the activity. Give each group directions for preparing for the mock trial. (You might want to put some of these directions on the blackboard as guidance). Depending on the size of your class, you may want to have more than one attorney for each side. The students can take turns giving opening and closing statements, as

well as share in the direct and cross-examination of witnesses. Circulate among the groups to give assistance. Assign a staff member to help each group.

GROUP 1 *Prosecuting Attorney(s) and Witnesses*

Make a list of the facts that you feel might prove the defendant is guilty.
Write a list of questions that you will ask each witness.

GROUP 2 *Defense Attorney(s) and Witnesses*

Make a list of all the facts that you feel might prove the defendant is innocent.
Write a list of questions that you will ask each witness.

GROUP 3 *Clerk and Bailiff*

The clerk makes sure the trial runs smoothly. Read the clerk's part. Make sure you understand what is supposed to happen. Study each step of the trial. Make sure you get the names of the witnesses.

During the trial, the bailiff brings in and takes charge of the defendant. She makes sure there is quiet and order in the courtroom. The bailiff leads the jury in and out of the courtroom if there is a jury.

GROUP 4 *Judge and Court Reporter*

The judge acts like the referee during the trial. It is the judge's job to make sure legal court rules are followed. The judge must decide what to do if someone *objects* to something. A lawyer can object if his/her opponent asks questions that:
- don't have anything to do with the case.
- browbeat the witness.
- lead the witness to answer a question just the way the lawyer wants the witness to
- ask the witness to give hearsay evidence ("he said . . ." or "she said . . .")

If a lawyer objects during the trial, make the lawyer state the reasons. If you believe the lawyer has a good reason to object say: "Objection Sustained." If you believe the lawyer does not have a good reason to object say: "Objection Overruled."

The court reporter's job is to take down everything that is said during the trial. Since you won't be able to do that try to take down as many questions as you can. You might want to take down some answers also.

GROUP 5 *Jury*

If there are enough people, you may want to have a jury. The jury should select a foreperson. The foreperson is responsible for reading the verdict in court.

After the closing statements the judge will instruct the jury as follows:

> "In order to return a verdict of guilty of first degree murder, the prosecution must have proved beyond a reasonable doubt that Rick Starr killed Laura with malice and forethought."

9. After students have conducted the mock trial, ask the following questions to debrief:

1. Was the trial conducted in a fair way?
2. What were the strong points brought out during the trial?
3. What were the weak points brought out during the trial?
4. Who do you think was the most important person in the trial? Why?

## EVALUATION

The teacher has ample opportunity to observe student mastery of the objectives for this lesson as students play their roles -- especially over several rounds of the mock trial.

## CURRICULUM INTEGRATION

This lesson provides a natural inclusion of speech or drama instruction and instructors. The English teacher might use Agatha Christie's "Witness for the Prosecution" (a short story also available on video) or similar trial literature.

*Reprinted from original by the author. Edited to fit this format.*

# HANDOUT A

## Steps in a Trial

1. Clerk announces the opening of court by saying "The court of Honorable Judge _________________ is now in session. All rise."
2. Judge enters and sits down. Everyone else then sits.
3. Bailiff enters with the defendant. (Bailiff usually stands close to the defendant for the whole trial.)
4. Clerk calls the case by saying "Your Honor, our case today is the State of __________v. __________. Is the Prosecution ready? Is the Defense ready?
5. Opening statements to the judge or jury
    A. Prosecution's statement
        1. Facts (what the evidence and testimony will show)
        2. Law (as it relates to the fact)
        3. Core theory of the case (what your side wants to prove; why the defendant is guilty)
    B. Defendant's Statement
    Include the same elements listed for the prosecution's statement except you want to prove defendant is innocent.
6. Clerk swears in each witness when they are called to the stand by saying: "Do you swear to tell the truth, the whole truth, and nothing but the truth?"
7. Prosecution's Case
    A. The Prosecution's attorney calls witnesses for his/her side and conducts a direct examination.
    B. A direct examination is a series of questions the lawyer asks the witnesses. The lawyer asks the witness to tell who they are and what they know about the case. These questions must ask for facts, not opinions. The lawyer may not make any comments about the facts, even if the witness says something wrong.
8. Defense cross-examines the prosecution's witness.
    A. The cross-examination is a series of questions the lawyer asks the prosecution's witness to find out if the witness remembers all the facts and is telling the truth.
9. The defense cross-examines each witness for the prosecution.
10. Prosecutor rests his/her case when there are no more friendly witnesses.
11. Defendants's Case
    A. Defense calls his/her friendly witnesses and conducts a direct examination.
12. The prosecution then cross-examines each witness (see Step 8).
13. Defense rests her/his case when there are no more friendly witnesses.
14. Closing Arguments

- A. Prosecution's Statement
    1. Review the testimony and evidence received at trial.
    2. Argue that the facts and law support your client's side.
    3. What relief should be granted?
- B. Defendant's Statement
    1. Review testimony and evidence received at trial.
    2. Argue that the facts and law support your client's side.
    3. What relief should be granted?

15. Jury instructions (if jury trial) given by the judge.
16. Judge/jury decides if the defendant is guilty beyond a reasonable doubt and announces decision. Judge decides sentence (if defendant found guilty).

## HANDOUT B

*State v. Starr*

### FACTS

Officer Rick Starr has been a member of the Big City police force for 10 years and has participated in community projects. He has never been married and is currently dating Laura Flynn. Flynn has been a waitress at the Big City Diner for the past 2 years. She is divorced and has two children.

Starr and Flynn have been arguing lately. She wants him to spend more time with her and the kids. However, Starr has volunteered for many assignments and has been working a lot of overtime. Flynn is becoming frustrated and suspicious of Starr's late night assignments. She has accused him of seeing another woman. Starr denies it and has told Laura she is crazy. He loves her but does not know how much longer they can be together.

Rick has just been offered a job in a small town in California. He wants to take the job but also wants to bring Laura. Previously Laura said she would go with him. However, she has been close to changing her mind. She does not want to move away from her relatives in Big City. Also, her kids want to stay in their schools. Rick is depending on Laura to go with him for company. He does not know anyone in California.

Rick made his decision to accept the job in California. He resigned from the police department and then went to the Big City Diner where Laura worked. He met her in the lobby at the cigarette machine. Starr told her he was going to California. All of a sudden Rick's gun was out and a shot was fired. Rick was arrested at the diner and charged with first degree murder.

### PROSECUTION WITNESS: JOE TURNER

> I knew Laura well. She had been a waitress at Big City Diner for about two years. I used to go in there 2 to 3 times a week for breakfast. She talked about Rick's new job in California but she wanted to stay in Big City. Rick had been pressuring her to go with him. She did not know how he would react to her decision to stay. She said that Rick had a temper and often yelled at her for no reason at all.
>
> One day I was sitting at the counter about 30 feet away when I saw Laura speak with the defendant. They looked like they were arguing but I couldn't hear what they were saying. Starr looked upset. I glanced at the clock to see if I was late for work. When I looked back,

Laura and Rick were both grabbing for his gun. His hand was on the grip and her hands were on the gun barrel. I could not see if his finger was on the trigger. All of a sudden the gun went off and Laura fell to the floor. The entire incident took less than ten seconds. I ran to the lobby and asked Rick what happened. He was staring at Laura's body and didn't say anything. He wasn't crying or anything. By the time the ambulance came, it was too late. Laura was dead.

## DEFENDANT'S TESTIMONY: RICK STARR

Laura and I have been living together for over a year. We began to talk about marriage. However, I was offered the sheriff's job in a small California town. I like Big City, but the new job paid better and the crime rate was lower. I told Laura I wanted the job but she did not want to move from Big City and her family. I also felt she was becoming too possessive of me -- always suspicious of where I went and what I did while I was at work. One day, I finally told her she was crazy and to get off my back. I told her I would decide Friday and tell her at the restaurant.

That Friday morning I went to the police station to turn in my badge. I didn't want to leave my gun in the car so I put it in the front waistband of my pants. I don't remember if the safety was on or off. Laura met me in the lobby to get some cigarettes. I told her I was going to California with or without her. She then got upset and reached for the gun but couldn't grab the handle. She had a strong hold on the barrel. I tried to pull the gun away from her but it accidentally went off. She fell to the floor. Everything happened very quickly, maybe within 5 seconds. I kneeled down beside her and said, "Laura, I love you. All the bad things I said before, I didn't mean it."

## JURY INSTRUCTIONS

To sustain the charge of first degree murder, the state must prove that:

1) that Rick Starr performed the acts which caused the death of victim Laura Flynn, *and*
2) that Rick Starr acted after deliberation and with intent to cause the death of the victim.

If you find from your consideration of all the evidence that each of these propositions has been proved beyond a reasonable doubt then you should find the defendant guilty of first degree murder. If not, then you should find the defendant not guilty of first degree murder.

# *No Weapons Allowed: A Lesson on Rule-Making*

by Melissa Lamberg, Hilda Harris, and Charlotte Wager
Jenner and Block, P.A., Chicago, IL

## INTRODUCTION

As in the war on drugs, state legislatures and schools often increase penalties as a response to rising violence. This lesson explores a new rule with a harsh penalty that a principal presumably posted after receiving a copy of a new state law designed to keep weapons out of schools.

Students will be asked to consider questions such as: Is the rule clear enough? Will this rule help solve the problem? Can/should it be rewritten? What else can/should principals, teachers, and other school officials do? What can police officers, parents, and students do to help make a school safer?

## OBJECTIVES

1. Students will compare and contrast the "letter" and "intent" of the law by using critical thinking skills in judging the hypotheticals in the student handout.
2. Students will recognize that it takes more than a law to solve a problem and that they can play a role in solving problems.
3. Students will develop an understanding that state legislators, principals, parents, teachers, police officers, and students may interpret roles differently.

## TIME REQUIRED

One class period

## RESOURCE PERSON

The lesson provides a good opportunity to invite your school principal, assistant principal, or a local legislator to visit the class. The guest could react to the students' answers to the debriefing questions. An attorney is also a good resource person for this lesson. The attorney could discuss the process of evaluating a case from all points of view, as do the students who are part of the "human graph" described below.

## MATERIALS

Student Handout A.
This continuum on the chalkboard:

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Strongly Agree | Tend to Agree | Undecided | Tend to Disagree | Strongly Disagree |

## PROCEDURES

1. Have the class read the student handout.
2. Choose four or five students to become a human graph, and instruct them to stand in front of the chalkboard. Explain to the class that you will read each hypothetical in the handout and the members of the human graph will react to it by standing in front of the number on the graph that corresponds with their opinion.
3. Instruct the class that the members of the human graph are not allowed to speak, and therefore the class will have to interpret their thoughts.

4. Read each hypothetical. Ask the human graph members, "Do you agree or disagree that this is a violation of the law?" Allow time for human graph members to think about the hypothetical and physically move to a position on the line.
5. Now ask the rest of the class to explain why they feel students are standing under 1. Repeat with 2-5. As human graph members hear arguments that seem persuasive, they may change their minds and move about under the line at any time. You may choose to let the human graph members explain their position after all other students have commented.
6. Continue this process until all the hypotheticals have been evaluated and discussed.
7. To debrief, ask these questions:
   a. Does the school rule need to be changed? Why or why not? If so, how?
   b. Would the teachers, principal, students, parents, and surrounding community of Fairlaw School like your new rule? Why? Why not?
   c. Should consequences for breaking the rule be included? If so, what would be some appropriate consequences? (Possible answers include suspension, expulsion, and punishing the parents).
   d. What are some rules you think schools should have to make them safer?
   e. Who can help make schools safer?
   f. What can these people do?
   g. What can you do?

## EVALUATION

Have students in groups of three or four attempt to revise the rule, including reconsidering punishments. Students should develop proposals for making schools safer and submit their plans to local school authorities.

## CURRICULUM INTEGRATION

Understanding the new rule in this lesson involves, in part, grasping the definition of *weapon*. Definitional issues/problems impede understanding in many disciplines. Students might interview teachers in art, music, mathematics, English, and social studies about definitional confusions in their academic disciplines.

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## HANDOUT A

The state legislature wants to get tough on crime and help the schools become safer. Increasing school violence has caused the legislature to pass a law saying that, if students bring weapons to school, their parents may be fined and the students may be expelled with possible automatic transfer of their case to adult court, where they would be sentenced to prison for up to two years. Also concerned about student safety, Fairlaw School Board has asked the principal to make sure students understand that they may not bring weapons to school. At all school entrances, the sign "No Weapons Allowed" has been posted. All students found with weapons will be reported to the police.

Try to figure out if the new law should apply in the following cases, keeping in mind both what the sign says, why the legislators passed the law, and what a weapon is.

1. Aaron, a fifth-grade student, takes the city bus to school every day. On the bus, he is sometimes bothered by a group of older boys who take his lunch money and threaten to beat him up if he tells. He is so scared that he begins bringing a short metal pipe to school in his book bag. He plans to pull the pipe out to scare the big boys if they start to hurt him. Is Aaron breaking the rule?
2. Keisha always carries a pocket knife that her dad gave her. She is artistic, and she uses the pocket knife to whittle small wooden statues while she is waiting for the bus going to and from school. Is Keisha breaking the rule?
3. Dejon brings a butter knife to school to use to spread tuna fish on crackers at lunch. Is Dejon breaking the rule?
4. Karen has to walk through a bad neighborhood to get to school. She carries a baseball bat with her every day. Is Karen breaking the rule?
5. Carlos' brother is in a gang. Carlos finds his brother's brass knuckles under the bed. He brings them to school to impress his friends and see if they know what they are. Is Carlos breaking the rule?
6. Jasmine brings a water gun to school and soaks all her friends at recess. Is Jasmine breaking the rule?
7. Andy saves rubber bands, which he likes to shoot at his friends. Is Andy breaking the rule?

# Old Enough? Trying Minors as Adults

by Mary Sheehy Moe, English Teacher, Columbia Falls, MT

## INTRODUCTION

Students will explore the controversy of trying minors as adults for the commission of certain crimes. Opposing psychiatric and legal viewpoints will be presented to familiarize the students with the philosophies inherent to the controversy. Students will use two literary works studied, A Separate Peace, by John Knowles, and Lord of the Flies, by William Golding, as sample cases to apply their own knowledge and philosophies to the controversy of whether minors should, at times, be tried as adults.

The United States in general and Montana in particular have shown an increasing trend in recent years to try minors accused of heinous crimes as adults. The proponents of this practice argue that minors who commit such crimes pose a risk to society; further, they demonstrate a level of criminality that must be addressed in a more punitive fashion than that which juvenile court provides. Opponents argue that the mitigation of youth and the potential for rehabilitation should apply to all minors and for all crimes.

Minors tried as adults in Montana in the past five years provide interesting insights into many aspects of the controversy. In addition, two literary works typically studied in high school English classes involve serious crimes--attempted murder and multiple murder-- committed by minors.

Applying the content of the novels A Separate Peace and Lord of the Flies to the controversy gives students the opportunity to apply the elements of law in writing a "brief" on the issue of whether to try the accused as a minor or as an adult.

## TIME REQUIRED

15 class periods

## MATERIALS

classroom set: Lord of the Flies
classroom set: A Separate Peace

## PROCEDURES

During the course of the semester, students will have read A Separate Peace and Lord of the Flies.

### DAY 1

As an introductory assignment for this unit, students will read newspaper coverage of recent cases in which minors have been tried as adults. They will answer the following questions after reading:

(a) List the names, ages, and crimes of the accused in each of the cases.
(b) Describe the circumstances of each crime.
(c) Why was this minor tried as an adult?

### DAY 2

Students will discuss the cases about which they read on Day 1, using their answers to the questions as the basis for their discussion. They will chart similarities and differences in the ages and backgrounds of the minors, the circumstances of the crime and their own responses as to why each minor was tried as an adult.

Students will prepare, for the guest speakers on Day 3, the legal viewpoints by brainstorming questions which will help them focus on what they hope to gain from the guest speakers' presentations.

Teacher will give overview of long-term assignment involving applying their knowledge of the controversy to the novels. The teacher will encourage students to take notes when presenters speak so that students will have specific facts for reference when they themselves argue their cases.

DAY 3
Guest Speakers: Two attorneys representing each side of the controversy. Each attorney will give a 5-10 minute rationale for his/her stance. Students will question the attorneys for the remainder of the period.

DAY 4
Students and teacher will discuss the information gleaned from Day 3 and apply it to the cases about which they have read.

Students will again brainstorm questions they might ask of psychiatrist/social services/minister speaker(s) on Day 5.

Teacher will explain Day 6 and students will begin to apply the elements of this controversy to the two novels they have read. (S)he will explain the procedure which will be used in making the application.

DAY 5
Other experts on the maturing process and the rehabilitation process--child psychiatrists, ministers, juvenile court officers--will present their own experiences and philosophies with regard to trying minors as adults. Same format as Day 3.

DAYS 6 & 7
Students will use the novels, A Separate Peace and Lord of the Flies, to develop findings of facts in regard to the attempted murder and multiple murders in respective novels. Of particular importance are the ages and motivations of the defendants and the circumstances and consequences of the crimes.

The teacher will review the distinction between findings of fact and conclusions of law and discuss the types of evidence each novel has to offer.

Students will work in small groups on Day 6 and meet in two large groups on Day 7 to come up with a consensus as to the findings of fact in each novel.

DAY 8
Students will present the findings of fact with regard to the crimes of each novel, debating which is verifiable as fact by citing page number and explaining relevance.

The teacher will present the section of the State Penal Code which defines homicides and variations thereof. As a homework assignment, students will charge Gene in A Separate Peace and Roger and Jack in Lord of the Flies as they deem appropriate, explaining how their particular charge fits the definition in the penal codes.

DAY 9
Through discussion/debate, the class will come to a consensus as to the crimes for which Gene, Roger, and Jack should be charged. Then the final assignment will be given:

Students must write a "brief" arguing for or against one of the aforementioned defendants being tried as an adult:

> The brief will have a short introductory paragraph which states the student's basic stance and the reason(s) for that stance.
>
> Each reason will become a paragraph, developed through evidence and reasoning as it applied to the particular case. The importance of support, applying findings of fact from this particular case to information presented by guest speakers, will be emphasized.
>
> The conclusion will summarize the basic reasons for the stance and end with strong statements of support.

Students who wish to receive an 'A' must plan to present their briefs orally to the class.

DAY 10

Students will develop an outline for their "briefs", conferring with the teacher for assistance in developing structure or support.

DAY 15

"Brief" due; presentations given. Responses to the oral "briefs" will provide a natural "wrap" for the unit.

## EVALUATION

The primary evaluative tool will be the student "briefs", in which students will test their ability to assimilate the controversy, prepare a stance for a specific case, and argue it with effective support, structure, and command of language.

## TIPS FROM THE TEACHER

If both novels have not been covered, Lord of the Flies is the better of the two for the purposes of the assignment. Presenters from outside the school are best, although school counselors are also effective. Law enforcement officers also make good presenters.

## CURRICULUM INTEGRATION

This lesson is based upon the natural link between literature study in English classes and law study which is more often in social studies classes.

The computer teacher can help students locate various newspaper articles via the Internet for Day 1. Reserach the topic of juvenile crime and/or the people and agencies involved on the Internet. For Day 8, one State Penal Code can be accessed on the Internet.

Lord of the Flies is available as a video. The original black and white masterpiece starring Roger Allan, Tom Chapin, Tom Gaman, Roger Elwin, and Kent Fletcher, directed by Peter Brook. 1963. 90 minutes. Call (800) 262-8600. ISBN# 0-7800-1353-0.

*This lesson distributed through the Warren E. Burger National Repository for Educational Materials on Citizenship and the Constitution Center for Research and Development in Law-Related Education. 1-800-437-1054. Lesson Number: 70552A/89677.*

# *Procedural Justice: The Case of a Cultural Defense*

## INTRODUCTION

In this lesson students role play a mock court hearing involving a petition for a "cultural defense" in a murder case. The judge must decide if this defense would serve or undermine the goals of procedural justice.

## OBJECTIVES

As a result of this lesson students will:

1. Develop their understanding of the fundamental concept of procedural justice as a vital criterion is determining the essential fairness of the justice system;
2. Perform roles in a mock court hearing to better comprehend the process of justice;
3. Participate in making the case for both sides of the dispute, better understanding the process of argumentation.

## TIME REQUIRED

two class periods

## MATERIALS

- Handout A: What Is Procedural Justice?
- Handout B: The Case and the Issue of Procedural Justice
- Defense Role Cards (3 cards) plus copies of the "Arguments Supporting the Use of a Cultural Defense in Criminal Cases" (for the Defense side only)
- Prosecution Role Cards (3 cards) plus copies of the "Arguments Against Allowing a Cultural Defense in Criminal Cases" (for the Prosecution side only)
- Judge Roll Card

## PROCEDURE

1. Distribute Handout A. Review the concept of Procedural Justice.
2. Distribute handout B. Review the case before the court and the issue of procedural justice involved in the case. Check student comprehension of the facts of the case and the issue.
3. Assign roles to students for the Court Hearing. The teacher may elect to conduct several rounds of the mock hearing so that more students get to take part directly and so the court gets to render judgments several times, providing its reasoning.
4. Provide preparation and study time.
5. Conduct the mock hearing. The judge renders his/her judgment.
6. Debrief students stressing the basic concept (procedural justice) and the arguments supporting the judge's decision.

## CULMINATING ACTIVITY

Invite a local judge or attorney to visit the class and discuss the case, stressing procedural justice and any instances of an attempted "cultural defense" in the real world.

## CURRICULUM INTEGRATION

Ask your English teachers to suggest good stories involving cultural difference and fairness.

*Adapted from Teaching About Laws and Cultures, Social Science Education Consortium, 1992, Lesson 5. Developed by Lynn Parisi.*

# HANDOUT A

## What is Procedural Justice?

Procedural justice has been called "the keystone of liberty" and the "heart of the law".

Procedural justice refers to:

- the fairness of the ways information is gathered; and
- the fairness of the ways decisions are made.

It does not refer to the fairness of the decisions themselves.

Respect for procedural justice is often a key indicator of a democratic political system. It has been said that the degree of procedural justice in a society is a good measure of the degree of freedom in that society, and of that society's respect for human dignity and other basic human rights.

The goals of procedural justice are to:

- increase the chances that all information necessary for making wise and just decisions is gathered;
- ensure the wise and just use of the information in making decisions; and
- protect the right to privacy, human dignity, and freedom.

## HANDOUT B

### THE CASE

On January 20, Mrs. Fumiko Kimura, a Los Angeles resident, received a call from a Japanese-American woman claiming to have been Mr. Kimura's mistress for the past three years. The mistress wanted to end the affair honestly by telling Mrs. Kimura all about it.

Nine days later, on January 29, Mrs. Kimura walked into the ocean carrying her six-month old daughter and four-year old son. She attempted to drown herself and her two children. Two teenagers spotted three bodies floating in the water and went to their rescue. Mrs. Kimura was saved, but her two children died.

When questioned by police, Mrs. Kimura explained that the realization of her husband's infidelity had brought shame and humiliation on her and her entire family because it meant she had failed as a wife. In Japanese culture, suicide is considered an honorable way to rid the family of the shame caused by such a failure. Thus, Mrs. Kimura had chosen to commit a Japanese ritual known as parent-child suicide, or *oyako-shinjo*. According to Japanese culture, children are considered an extension of the mother, not separate individuals. Thus, to commit suicide the mother must kill not only herself but her extensions, the children. To leave the children behind would make them the target of contempt by society.

Mrs. Kimura has been charged with two counts of first-degree murder under California law. She faces a possible death sentence if convicted.

### THE ISSUE OF PROCEDURAL JUSTICE

The issue of Mrs. Kimura's cultural background and customs has raised controversial questions concerning how to fairly try her case. The defense attorney representing Mrs. Kimura has petitioned the judge in the case to allow him to present a cultural defense for Mrs. Kimura. In building a cultural defense, the defense attorney would argue that culture should be the key factor in determining Mrs. Kimura's guilt or innocence. A cultural defense would be based on the principle that if an act is not a crime in the accused's native culture, then the accused has no awareness of having broken a law or committed a crime. The accused's culture becomes an excuse for the crime.

The judge must decide whether a cultural defense, which has never been used before in a criminal case, will serve or undermine the goals of procedural justice. he has called a hearing to consider the issue. The *defense*, whose job is to protect the rights of the accused, will be allowed to present an argument in favor of allowing a cultural defense. He is allowed to call in two experts to support his position. The *prosecution*, whose job is to protect the general welfare of society, will present an argument opposing the use of a cultural defense. She, also, will be allowed to call two experts to support her position. Based on the arguments presented, the judge will make a ruling whether to allow a cultural defense in this case.

## ROLE CARDS: DEFENSE

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### Role # 1: John Klein, Defense Attorney

As defense attorney, your primary interest is getting your client acquitted. You feel the cultural defense may be the best way to achieve this end.

Review the arguments provided in this handout in support of the cultural defense. From all the arguments presented, select the ones you feel will best support your request that the judge allow a cultural defense in this case. Remember that, as a lawyer, you should base your position on the issue of procedural justice for your client. You will also want to cite arguments based on legal philosophy and legal precedent established through comparable cases. Prepare a two to three minute position statement to present to the judge at the preliminary hearing.

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### Role # 2: Susan Fine, Social Worker

As a social worker specializing in helping new immigrants adapt to the United States, you are often brought in as an "expert witness" in cases involving immigrants' conflicts with our laws. In these cases, you are called upon to explain the cultural background of the person on trial and make a case for leniency in sentencing. From your experience, you believe strongly that consideration of cultural background is essential if some immigrants are to get a fair trial.

Review the arguments in support of a cultural defense provided in this handout. Select arguments you believe will best reflect your position as a social worker in favor of the cultural defense. Prepare a two to three minute position statement to present to the judge at the preliminary hearing for the Kimura case.

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### Role # 3: Linda Kamakura, Japanese-American Petitioner

As a representative of over 1,000 Japanese-Americans in Los Angeles who signed a petition in support of Mrs. Kimura, you have been asked to speak on behalf of a cultural defense at the preliminary hearing of the Kimura case.

You strongly believe that Mrs. Kimura is a product of her culture and that she followed the customs of her culture in her parent-child suicide attempt, just as she had followed the customs of her culture in all other aspects of her life. Because Mrs. Kimura is Japanese, the only humane and fair legal procedure would be to try and sentence her according to Japanese law, even though the act occurred in the United States.

Review the arguments for the cultural defense presented in this handout. From all the arguments provided, select the ones you think best reflect your position in support of the cultural defense. Prepare a two to three minute position statement to present to the judge at the preliminary hearing on this case.

## DEFENSE SHEET

## ARGUMENTS SUPPORTING THE USE OF A CULTURAL DEFENSE IN CRIMINAL CASES

- If the court refuses to allow a cultural defense, if might be perceived as evidence of disdain for an ethnic minority's cultural values. When an ethnic group's cultural values are ignored by the mainstream society, that group may become alienated from the majority culture. That alienation could, in turn, give rise to hostility and ethnic conflicts that would significantly disrupt the social order.

- If the court repudiates the cultural defense, it takes the chance of sending out a broad message that an ethnic group must trade in its cultural values for that of the mainstream society if it is to be accepted as equal by the majority. A social or judicial system that punishes a person for following his or her culture is making a pretty clear statement that society considers the culture to be inferior.

- By judging each person according to the standards of his or her native culture, the court could preserve the values of that culture and thus help to maintain a culturally diverse society, which is a hallmark of the United States.

- By absorbing cultural elements from a broad spectrum of ethnic groups, American culture has remained dynamic and creative, continually growing as it weaves threads of various immigrant groups into its social fabric.

- American society and the legal system it has developed are committed to equality. Equality means not only equality of individuals but equality of ethnic groups. If we are to insure equality of ethnic groups, then we must respect each group's right to be different. The majority cannot be allowed to penalize a minority group simply because it is different. The cultural defense insures that minority ethnic groups are treated fairly and equally before the law, that they are not penalized just for being different.

- The cultural defense should be as basic to the U.S. justice system as commitment to cultural pluralism is to our society. The cultural defense helps maintain diversity of cultural identities in this country by protecting important ethnic values.

- Mrs. Kimura was a traditional Japanese woman and must be understood as such. She embraced all Japanese traditions. She even kept her house Japanese style, although she lived in California 14 years. The Kimuras slept on futons and left their shoes by the front door. Mrs. Kimura bathed Mr. Kimura's feet each night before he went to bed. Mrs. Kimura's response to her husband's unfaithfulness made as much sense in her culture as the way she kept her house. Her acts must be judged in that context.

- In Japan, the practice of mother-child suicide is illegal, but it is not uncommon. It happens perhaps once a day and does not receive much attention. In Japan, such a case might be dismissed before going to trial. If it did not go to trial, the charge would be manslaughter rather than murder. The defendant would be treated with benevolence and compassion because that is the philosophy of the Japanese judicial system. The court would strongly consider Mrs. Kimura's pain and humiliation. It would probably give her a suspended sentence.

- The "ignorance of the law is no excuse" view is unfair because it requires foreigners to conform to the majority's standards and values. The result is that the values of the foreign culture, which enrich American life, are lost.

- The cultural defense recognizes the importance of the individual. Respect for individuals and their personal customs is an integral part of the human rights philosophy on which the United States is based.

# ROLE CARDS: PROSECUTION

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## Role # 4: Melinda Gonzales, Prosecuting Attorney

As prosecuting attorney, your job is to protect society and uphold its standards. You are very conscious of the public sentiment and tragic circumstances of this case. However, as a prosecutor in Los Angeles, you are also extremely sensitive to the fact that there are literally hundreds of ethnic and cultural groups in your jurisdiction, all with unique customs and traditions. The courts have to set a standard of equality, fairness, and objectivity for all. From a purely legal standpoint, you are concerned with how establishing a precedent for using a cultural defense might tie your hands in prosecuting any case involving an accused from a minority culture. How would standards of the law and order be affected?

Review the arguments opposing the cultural defense presented in this handout. From all the arguments cited, select those that you think best reflect your position as a prosecuting attorney opposing the cultural defense. Keep in mind that your position should revolve around the issue of procedural justice as it protects the values and interest of society at large. Prepare a two to three minute position statement to present to the judge at the preliminary hearing on this matter.

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## Role # 5: Paul Chun, Asian-American Lawyers Association

Being from an Asian-American minority group, you are sensitive to the cultural dimensions of the Kimura case. Yet you still think it would be a mistake if the judge were to allow a cultural defense in this case. Your opinion is that the cultural defense conflicts with the fundamental principle of equal justice. Because it essentially boils down to special treatment for some immigrant groups, the cultural defense would perpetuate and emphasize the differentness of these groups. The special treatment would cause ill-feeling and social prejudice against these groups.

Review the arguments opposing the cultural defense provided in this handout. From all the arguments presented, select several that you think best support your position opposing the cultural defense. Prepare a two to three minute position statement to present to the judge at the preliminary hearing on the Kimura case.

Role #6: Lee Winston, Legal Historian, University of California at Berkeley

As an historian of the U.S. legal system, you are opposed to the use of a cultural defense in criminal trials because you think it flies in the face of our legal philosophy and practice over the past century.

Review the arguments opposing the cultural defense provided in this handout. From all the arguments cited, select several that you think best reflect your concerns as a legal historian. Prepare a two to three minute position statement to present to the judge at the preliminary hearing on the Kimura case.

# PROSECUTION SHEET

## ARGUMENTS AGAINST ALLOWING A CULTURAL DEFENSE IN CRIMINAL CASES

- Preservation of the social order is perhaps the highest aim of the legal system. To preserve order, societies must lay down and adhere to a set of laws that requires obedience of all members of the society, regardless of individual factors. Accepting a cultural defense in criminal trials would completely undermine the universality of the law and, thus, ultimately damage the social order.

- Every society operates on minimal standards of conduct to which every member of society must conform. If we begin to make exceptions for one group, there will be no end to exceptions and the very foundation of our system will fall apart.

- A fundamental principle of law in this country is that "ignorance is no excuse for non-compliance." This principle sets the standard for an objective, rational, legal system.

- It is of great importance that the administration of the law be uniform. Law must be administered without respect to person. It would be dangerous, as well as unjust, to introduce into general practice an exception to the law in favor of foreigners.

- Murder is a most serious crime in this country. Its seriousness cannot and should not be lightened by considering legal or cultural standards from other countries.

- You are treading on shaky ground when you decide something based on a cultural tradition because our society is made up of so many different cultures. You have to draw the line somewhere. People have chosen to live here and they must able by the laws or we will have anarchy.

- Accepting cultural factors as a legitimate excuse for a criminal activity would create a specially privileged segment of the population. This privileged group would be able to rely on an excuse that the majority of the population could not use. It would give them an unfair advantage. It would set up an inequality of groups before the law, which is contrary to our whole legal system.

- The cultural defense would create an unfair exception to criminal law for newcomers by allowing their ignorance of U.S. law to be an excuse for acts that long-term residents of the United States would be subject to criminal liability for, despite their possible ignorance.

- If we establish a precedent of a cultural defense in criminal trials, we raise the question of who can use it and who cannot. Are all immigrant groups allowed to use it, even if they come from cultures quite similar to ours? Can they use it no matter how long they have been in this country, or only if they have been here less than a certain amount of time - six months, a year, five years? Where is the cut-off?

- Mrs. Kimura had lived in California 14 years when she tried to commit suicide. Certainly that is enough time to be familiar with and responsible to our laws. Even if the cultural defense were valid, this case should not qualify because Mrs. Kimura really could not be considered to be a recent immigrant.

- If the precedent of the cultural defense is established, the American justice system will have trouble maintaining the deterrent effect of criminal law on immigrant groups. The use of the cultural defense would remove all incentive for foreigners to learn our laws. By rejecting the cultural defense and not allowing it in our courts, we will be encouraging immigrants to adapt more quickly to their new homeland. We will, in effect, aid them in their general assimilation into the United States society.

## ROLE CARD: THE JUDGE

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Role # 7: The Judge

You are the judge presiding over the Kimura murder case. The defense attorney representing Mrs. Kimura has requested that he be allowed to base his case for Mrs. Kimura's innocence on unprecedented strategy - a cultural defense. This request has raised an important question of procedural justice. On the one hand, can the accused receive a fair trial if she is not allowed to emphasize the role her culture played in motivating her actions? On the other hand, will the interests of society be served and protected if such testimony provides the excuse for a serious crime?

You have called a preliminary hearing to rule on this issue. You have invited the defense attorney, prosecuting attorney, and two experts representing each side to present arguments on this issue. You will then decide whether to let the defense attorney use the cultural defense.

To prepare for your role, you should review and be familiar with the range of arguments for and against the cultural defense. They are provided for you on this handout. You should also think of questions you might want to ask the lawyers and experts to clarify the issue.

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# *Safe - Schools Survey*

by Barbara Miller, Senior Staff Assistant,
Social Science Education Consortium, Boulder, CO

## INTRODUCTION

Gathering and analyzing data about the nature and scope of violence is an important step in designing meaningful safe-schools projects. Schools such as North Middle School, a Stanford University Accelerated school in Aurora, Colorado, have found that a simple survey can result in significant improvements in how youth and adults interact within a school building.

For example, at North students reported that they felt safest in their classes, less safe in the hallways, and even less safe off the perimeters of the school grounds. Based on the findings, students, parents, and teachers worked together to change some of the rules regarding the halls. Now classes are dismissed gradually to limit crowding in the halls, and some halls have new "one-way" traffic to reduce shoving.

The Student Handout for this strategy provides some sample questions that students can use to start thinking about what information would help them make their school safer. The questions are taken from a very extensive survey developed by Jennifer Bloom, the director of the Minnesota Center for Community Legal Education in St. Paul, Minnesota, and the Minnesota attorney general's office.

## OBJECTIVES

As result of this lesson, students will:

1. Test hypotheses regarding student experiences related to violence at school.
2. Develop skills in creating and analyzing survey questions and in analyzing survey results.
3. Communicate information to audiences beyond the classroom about how youth experience violence.

## TIME REQUIRED

two class periods

## MATERIALS

Handout A: Sample Student Survey Questions

## PROCEDURES

1. Ask students to make some hypotheses regarding violence at their school. Where do they think violence is most likely to occur? Why do students commit acts of violence? Are students satisfied with the school's current effort to keep itself safe? Advise students to keep a record of the hypotheses for later use in this activity.
2. Solicit student help in designing a survey that will answer questions that interest them. Provide some guidelines for developing and administering a reliable and valid survey. Considerations include (1) administrative approval, (2) ensuring a representative sample, (3) including sufficient numbers of respondents to make accurate generalizations, and (4) calculating the amount of time that will be available for administering the survey.
3. Discuss how the survey results will be used. Will students be writing letters with recommendations to policy makers such as the student council, the principal, or a member of the school board? Will the students use the result to design service-learning programs? Will the survey be used to write a school newspaper article? Develop a cover letter to inform survey respondents about how the information will be used.

4. Provide students with the handout and analyze the sample questions: Are the questions understandable and important? What questions that the students want to ask are missing? What demographic information would be helpful (gender, grade level, other)?
5. Provide students with an opportunity to develop additional questions. A student committee can review the questions and build the survey. With administrative approval and perhaps some consultation with a counselor or teacher with evaluation expertise, the survey can be administered, tallied, and summarized. Much of this work can be completed as homework or as an independent project.
6. Once the results are summarized, analyze them. Were the hypotheses supported? What are the usefulness and limitations of the collected data?
7. Consider sharing the information with an audience beyond the classroom. Include students in identifying such an audience.

## EVALUATION

The teacher has ample opportunity to assess student participation and learning in this session. Students might map safe and unsafe areas in the school neighborhood (including the school and campus) and then do a comparison among their maps. They might also decide upon and conduct dissemination of their safe school survey and mapping activities.

## CURRICULUM INTEGRATION

The English teacher might use literature on safe and unsafe places and how writers may manipulate readers' perceptions and feelings about personal safety.

Science teachers could do safety procedures in the laboratory and special places (shower and eye wash area in the laboratory).

Speech teachers could develop assignments around the personal safety theme, with public speaking engagements for successful students.

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## HANDOUT A

### Sample Student Survey Questions

DIRECTIONS
Analyze these survey questions by asking yourself: Are they understandable? Are they important? What questions that students may want to ask are missing? Develop your own school survey.

1. Is your school location considered __ Urban __ Suburban __ Rura?l
2. Is your school __ Public __ Private?
3. What grades are in your school? ____ through ____
4. What grade are you in? _____
5. Are you male or female? __ Male __ Female
6. In your opinion, during the past year, has the level of physical and/or verbal violence in your school __ Increased __ Decreased __ Stayed the same?
7. During the past year, how many times did you personally see violence in and/or around your school? __ 0 __ 1-5 __ 5-10 __ 10-20 __ more than 20
8. About how often do students talk about violence in and around your school? __ Once a week __ More than once a week __ Once a month __ Twice a month
9. How safe do you feel when you are in school? __ Very safe __ Somewhat safe __ Not very safe __ Not safe at all
10. In the past year, which of the following things happened in your school building or on your school grounds?

| Has a student: | Yes | No |
|---|---|---|
| a. Verbally insulted you? | __ | __ |
| b. Verbally threatened you? | __ | __ |
| c. Pushed, shoved or grabbed you? | __ | __ |
| d. Kicked, bitten, or hit you? | __ | __ |
| e. Threatened you with a knife or gun? | __ | __ |
| f. Use a knife or fired a gun at you? | __ | __ |
| g. Stolen something from you? | __ | __ |

If any of the things in item 10 happened to you, did you report them to school officials or the police? __ Yes __ No

If you did not report them why? __ Did not want to bother __ Did not think it would make a difference __ Did not know whom to tell __ Scared of retaliation __ Other: ______________________________

11. Based on your experience, do you feel that the following types of violence are a major problem, a minor problem, or not a problem at your school?

| | major | minor | no problem |
|---|---|---|---|
| a. Verbal insults | ___ | ___ | ___ |
| b. Threats to students | ___ | ___ | ___ |
| c. Threats to teachers | ___ | ___ | ___ |
| d. Pushing/shoving/grabbing | ___ | ___ | ___ |
| e. Kicking/biting/hitting | ___ | ___ | ___ |
| f. Threatening someone with a knife or gun | ___ | ___ | ___ |
| g. Using knives or firing guns | ___ | ___ | ___ |
| h. Stealing | ___ | ___ | ___ |
| i. Gang harassment or intimidation | ___ | ___ | ___ |
| j. Gang-related fighting or violence | ___ | ___ | ___ |
| k. Other: ______________________ | ___ | ___ | ___ |

12. Based on your experience, do you think each of the following is a major factor, a minor factor, or not a factor in the violence in your school?

| | major | minor | not a factor |
|---|---|---|---|
| a. Racial or ethnic diversity | ___ | ___ | ___ |
| b. Various achievement levels among students | ___ | ___ | ___ |
| c. Boredom or lack of motivation to learn | ___ | ___ | ___ |
| d. Poverty | ___ | ___ | ___ |
| e. Gang or group membership | ___ | ___ | ___ |
| f. Involvement with drugs or alcohol | ___ | ___ | ___ |
| g. Lack of parental supervision at home | ___ | ___ | ___ |
| h. Exposure to violence in the mass media | ___ | ___ | ___ |
| i. Overcrowding or lack of supervision | ___ | ___ | ___ |
| j. Other: ______________________ | ___ | ___ | ___ |

13. Please rank the safety of the following places from 1 to 10 (1 being the place where you feel the *most* safe, and 10 being the place where you feel the *least* safe):

___ In school
___ On the school bus
___ At home
___ At church/synagogue
___ In your neighborhood
___ At a friend's home
___ At a relative's home
___ At a community center
___ At the local mall
___ In another place

14. In your school, how often do you think students commit acts of violence because:

| | very often | sometimes | rarely | never | not sure |
|---|---|---|---|---|---|
| a. Other students are carrying weapons? | ___ | ___ | ___ | ___ | ___ |
| b. It makes them feel important? | ___ | ___ | ___ | ___ | ___ |
| c. It impresses their friends? | ___ | ___ | ___ | ___ | ___ |
| d. They are provoked by others? | ___ | ___ | ___ | ___ | ___ |
| e. They want to hurt someone? | ___ | ___ | ___ | ___ | ___ |
| f. They want another person's possessions? | ___ | ___ | ___ | ___ | ___ |
| g. They are prejudiced toward or hate a group of students? | ___ | ___ | ___ | ___ | ___ |
| h. They use or sell drugs? | ___ | ___ | ___ | ___ | ___ |
| i. They are jealous over a girl/boyfriend? | ___ | ___ | ___ | ___ | ___ |
| j. They have to in order to belong to a gang or group? | ___ | ___ | ___ | ___ | ___ |
| k. They are afraid? | ___ | ___ | ___ | ___ | ___ |
| l. Other:___________<br>_________________ | ___ | ___ | ___ | ___ | ___ |

# *School Dress Code*

by Connie Hankins, Miami Carol City High School, Miami, FL

## INTRODUCTION

Does the First Amendment protect students' "freedom of expression" at school in relation to hair length and dress codes? How far did *Tinker v. Des Moines* extend student rights? Are questions on grooming and dress limited only by guidelines that they not create "a material and substantial disruption to the education process"? These questions and more will be analyzed in the following activity as students will explore the meaning of "freedom of expression" at school.

## TIME REQUIRED

two class periods

## MATERIALS

School Dress Code
Handout A: *Tinker v. Des Moines*
Handout B: Federal Court Guidelines for School Dress Codes

## PROCEDURES

a. Provide students with a short summary of *Tinker v. Des Moines* (Handout A). Have students read the case and answer the three questions that follow the summary. The teacher should make sure students understand that an elected school board supported the decision to discipline the students, and that a majority of students obeyed the regulation (only 5 of 18,000 students in Des Moines, Iowa schools wore black arm bands). There was no violence or threat of violence on school property when the students wore the arm bands.

b. Students should role play this situation -- one student could play the part of the student wearing the arm band and another could play the part of the principal. As a follow up to this role-play, students can write a short essay describing what their rights would be if the principal suspended them from school for a similar reason.

c. The teacher makes prior arrangements with the office to have the class interrupted after 10 minutes. The office will make an announcement or send an office runner to the class with a new school dress policy. (Distribute copies of the school dress code.) The policy should create resentment but be believable. The teacher should read the policy and allow students to react to it.

d. The ensuing discussion should focus on the following elements of the new proposal: Is it fair? Is it legal? Is it Constitutional? What about expression at school? Does *Tinker* apply here?

e. After discussion, provide students with Handout B: "Federal Court Guidelines for School Dress Codes" and have students write their own dress code. Then compare this code with the code in effect at the school. Are there any differences? What are they? Can the students see reasons for maintaining a dress code?

f. Students should be aware that one of the purposes of education is to help prepare students to be responsible participants in a democratic society. Freedom of speech is just one way to express a viewpoint, and students should be encouraged to participate in discussions in which people freely express different points of view.

In *Tinker v. Des Moines* the court ruled that this type of expression was close to being "pure speech." Since the school officials had not shown that the conduct had materially and substantially interfered with the discipline of the school, such conduct was protected under the First Amendment, and all punishment by the school district had to be rescinded.

## EVALUATION

Write an essay of at least 250 words in which you argue for dress codes as a necessary restriction upon middle and high school students' freedom of expression, or conversely you argue against dress codes as unnecessary for middle and high school learners except, perhaps, in special programs such as auto mechanics, basketball, and football. Of course, your arguments should consider the law in these matters as reflected in Handout B.

## CURRICULUM INTEGRATION

a. Interviewing: Interview persons pursuing careers in your community and ask about "dress codes." Some occupations have formal, written dress codes; others have informal, unwritten dress expectations. Try to find out what the code (formal or informal) mandates and ask whether such expectations are reasonable or unreasonable (sample occupations: real estate, sales, fast food cook, Florida Department of Corrections officer, attorney at law, school teacher, police officer, and homemaker). Write a brief paper on your findings.

b. Art: Many persons, including students, are "into" body art (temporary and permanent) and decoration. Do your school's dress code and code of conduct address such art forms? Why or why not? Interview your teachers and the assistant principal for their input on this issue and write a *mock* newspaper story.

c. Interview at least one teacher in each of the following subjects: English, mathematics, science, art, and music. Ask about forms of *expression* in their fields. In which fields, if any, does dress become an important feature of communication or expression? How have "standards" or "codes" of expression changed in these fields in the last twenty years? Are teachers in each of the above "expected" to dress a certain way? Report your findings to the class.

d. Describe how your school's own policy supports the federal guidelines for school dress codes.

*This lesson distributed through the Warren E. Burger National Repository for Educational Materials on Citizenship and the Constitution Center for Research and Development in Law-Related Education. 1-800-437-1054. Lesson Number: 70422A/89448.*

## HANDOUT A

### *Tinker v. Des Moines*

John F. Tinker (15), Christopher Eckhardt (16), and Mary Beth Tinker (13) attended public schools in Des Moines, Iowa. In December, 1965, a group of adults and students held a meeting at the Eckhardt home. This group decided to publicize their opposition to the Vietnam War and their support of a truce by wearing black arm bands during the holiday season and by fasting on December 16 and New Year"s Eve. The Tinkers had engaged in similar activities before and decided to participate in this program.

The principals of the Des Moines schools became aware of the plan to wear arm bands and on December 14, 1965 adopted a policy prohibiting students from wearing arm bands while at school. Any student wearing an arm band to school would be asked to remove it. Refusal to do so would result in suspension from school until the arm band was removed. The school board later supported the decision made by the principals.

On December 16 and 17, several students, including Mary Beth and John Tinker and Christopher Eckhardt, wore black arm bands to their schools. They were all sent home and suspended from school until they removed the arm bands. The students did not return until the planned period for wearing the arm bands was over.

A complaint was filed in the U.S. District Court by Mr. Tinker, who stated that the students' right of free expression had been violated. He wanted an injunction restraining the school officials from disciplining the petitioners.

Questions:

1. Why did the students wear black arm bands to school?

2. Who made the decision that wearing arm bands would result in suspension?

3. Do you agree with the decision of the principals?

## HANDOUT B

### Federal Court Guidelines for School Dress Codes

A summary of lower court rulings with special emphasis on *Darr v. Schmidt*:

1. Dress codes must be specific and clearly understood by all students.
2. The regulations must be reasonable and not arbitrarily enforced.
3. The school must have a compelling interest to accomplish an educational objective in establishing the dress code.
4. The regulation must not be discriminatory in application.
5. Schools can regulate dress that is obscene, a health hazard, or causes a distraction to the education process.

*Reprinted from CRADLE, SPICE II BOOK from a lesson by Rodney Hanson. "Don't Touch My Hair", 1987.*

# *Search and Seizure*
## *THE CASE STUDY APPROACH: THE INSTRUCTIONAL PROCESS*

from Virginia Institute for Law and Citizenship Studies, Inc. (Issues of Law and Citizenship)

The case study approach, when used correctly, can be an exciting way to have students critically examine legal concepts and issues. By participating in this process, students have the opportunity to learn substantive law, analyze the "social policy" behind those laws and discuss the impact of various court rulings on society. While involved in this process, students also have the opportunity to develop a variety of analytical thinking skills including reading for facts, synthesizing issues, and developing logical arguments.

Each case study includes a summary of the facts of the case and a "hint" as to the legal issue in the case. After having students read the case, the teacher should carefully lead them through the process of identifying the significant factual information. The facts provide the basis for analysis of a case. Without a basic understanding of the facts, the development and analysis of the issues and arguments can be both frustrating and counterproductive.

After identifying and discussing the facts, the teacher (or resource attorney) should provide the students with some basic grounding in the law and assist students to identify and focus on the issue or legal question raised by the facts. Students should then work to develop arguments for each side of the issue. The teacher should guide students, individually or in small groups, to develop logical and convincing arguments that are related to the legal question involved. Students for both sides should then be asked to evaluate and discuss all viewpoints including those with which they disagree.

Students are now in a position to clarify their own values concerning the case and draw a conclusion as to how they would rule should they be serving as judge in the case. The teacher should encourage the students to weigh the information carefully and to develop reasons and justification for their position.

At the end of this process, students can compare their arguments, holdings, and reasonings with the opinions of the Court. Teachers should separate facts and decisions on the same printed page, so that students will initially read with only the facts in hand. Dissenting opinions should be separated as well to allow students to argue the merits of unmarked majority and dissenting opinions.

For additional information on the case study method, the following sources are recommended:

Gerlach, Ronald A. and Lamprecht, Lynne W., Teaching About the Law: A Guide to Secondary and Elementary Instruction. Cincinnati, Ohio: The W.H. Anderson Company, 1975

Arbetman, L.P., McMahon, Edward and O'Brien, Edward, Street Law: A Course in Practical Law. 3rd Edition St. Paul, Minnesota: West Publishing Company, 1986

*This lesson distributed through the Warren E. Burger National Repository for Educational Materials on Citizenship and the Constitution Center for Research and Development in Law-Related Education. 1-800-437-1054. Lesson Number: 70739/89868,*

*Mapp v. Ohio*
367 U.S. 643 (1961)

FACTS
One day in May 1957, several Cleveland police officers came to the home of Ms. Dollree Mapp. The police were looking for a fugitive who they believed was hiding out in Ms. Mapp's home. They requested entrance, but Ms. Mapp refused to admit them without a search warrant. After she refused a second time, the police broke into the apartment and handcuffed her when she grabbed a piece of paper that they told her was a valid search warrant. The police officers searched the entire house and discovered some obscene materials. These materials were used to convict Ms. Mapp under Ohio law for possession of obscene books, pictures, and photographs. The "search warrant" was never produced in court by the prosecution. Ms. Mapp was found guilty. The Ohio Supreme Court affirmed the conviction, and she appealed to the United States Supreme Court.

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DECISION: *Mapp v.s. Ohio*

Issue: Was the evidence obtained in the Mapp case admissible in a state court?

Decision: No. The United States Supreme Court ruled (6-3) that the evidence in the Mapp case had been obtained illegally and thus was not admissible in court.

Reasoning: At one time common law seizure of evidence by "illegal means" was not viewed as affecting the quality of the materials obtained. As a consequence of this thinking that evidence was evidence however it was obtained, courts did not refuse to admit materials into evidence merely because they were not obtained according to the rules. This view prevailed until 1914 when the Supreme Court ruled, in *Weeks v. United States* 232 U.S. 383, that evidence seized in disregard of the Fourth Amendment standards was to be inadmissible in federal court. This prohibition came to be known as "the exclusionary rule" and was intended to provide a deterrent to illegal conduct by law enforcement personnel.

In the Mapp decision, the Supreme Court made the exclusionary rule applicable to state courts. The majority in Mapp indicated that the exclusionary rule was incorporated because other means by which illegal police behavior might be controlled had failed.

## *Terry v. Ohio*
392 U.S. 1 (1968)

FACTS

One afternoon Detective Martin McFadden was patrolling in downtown Cleveland when he noticed two men, petitioner Terry and his cohort. McFadden testified that he had never seen the men before but the routine habits of observation which he had developed in over forty years with the police force led him to conclude that they "didn't look right." He stationed himself in a doorway several hundred yards away and continued to watch them. His suspicions were aroused further when he saw one of the men walk past some stores, pause, look in a store window, walk on a short distance, turn around, pause, look in the same window, and then rejoin his companion at the corner. In all this routine was repeated about a dozen times. At one point the two men were joined by a third and they conferred together at the corner. These observations led McFadden to surmise that the men were "casing" the store for a prospective robbery. He decided to investigate.

McFadden approached the three men he had seen at the corner and identified himself as a police officer, and asked for their names, an inquiry to which he received a mumbled response. Because he thought they might have a gun, McFadden "grabbed Terry, spun him around and patted him down the outside of his clothing." He felt a pistol in Terry's left breast pocket but could not remove the gun by reaching inside to the coat pocket, so he told the men to step into the store where he took off Terry's coat and confiscated the revolver. After "patting down" the other two men, McFadden found another gun. He then asked the proprietor of the store to call the police. The men were taken to the police station where Terry and his companions were booked for carrying concealed weapons. Both were convicted on the charge and sentenced to one to three years imprisonment. The defendants asked before the trial to suppress the evidence on grounds that McFadden's actions constituted an unreasonable search and seizure.

A state appellate court later affirmed the convictions and the Ohio Supreme Court dismissed the appeal. Terry appealed the case to the United States Supreme Court.

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DECISION: *Terry v. Ohio*

Issue: Was the admission of the revolver into evidence a violation of Terry's rights under the Fourth Amendment?

Decision: No. The United States Supreme Court held (8-1) that the revolver seized from Terry was properly admitted in evidence against him.

Reasoning: In the words of Chief Justice Warren:

We merely hold today that where a police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot and that the persons with whom he is dealing may be armed and presently dangerous, where in the course of investigating this behavior he identifies himself as a policeman and makes reasonable inquiries, and where nothing in the initial stages of the encounter serves to dispel his reasonable fear for his own and other's safety, he is entitled for the protection of himself and others in the area to conduct a carefully limited search of the outer clothing of such persons in an attempt to discover weapons which might be used to assault him. . . . Such a search is a reasonable search under the Fourth Amendment, and any weapons seized may properly be introduced in evidence against the person from whom they were taken.

The Supreme Court made special note that "[e]ach case of this sort will, of course, have to be decided on its own facts."

## *Chimel v. California*
## 395 U.S. 752 (1969)

FACTS

On the afternoon of September 13, 1965, three police officers came to the home of Mr. Chimel in Santa Ana, California. The officers had a warrant for Chimel's arrest for the burglary of a coin shop. The police did not have a search warrant. Chimel's wife let the police into the house. The officers waited for about fifteen minutes until Chimel came home from work. When he walked in, one of the officers handed him the arrest warrant and asked for permission to "look around." Chimel objected, but the police told him that they were going to search the house anyway, based upon the lawful arrest warrant. For nearly an hour, the police searched the three-bedroom house, including the attic, garage, and a small workshop. Items taken from the house were used as evidence in Chimel's trial. Chimel was convicted. His case reached the United States Supreme Court on appeal.

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DECISION: *Chimel v. California*

Issue: Can the search of an entire house, without a search warrant, result in obtaining legal evidence for an arrest and conviction?

Decision: No. The United States Supreme Court held (7-2) that this search was unreasonable and contrary to the meaning, intent, and scope of the Fourth Amendment.

Reasoning: In a previous case (*U.S. v. Rabinowitz,* 339 U.S. 561950) the United States Supreme Court held that the police could "search the place where the arrest is made in order to find and seize things connected with the crime." In this case, the Supreme Court reversed that holding, deciding that the search at the time of arrest could only include the person arrested "and the area into which an arrestee might reach in order to grab a weapon or evidentiary items. There is no comparable justification, however, for routinely searching any room other than that in which an arrest occurs or, for that matter, for searching through all the desk drawers or other closed or concealed areas in the room itself. Such searches in the absence of well-recognized exceptions, may be made only under the authority of a search warrant. The adherence to judicial processes mandated by the Fourth Amendment requires no less."

## *Katz v. United States*
## 389 U.S. 347(1967)

FACTS
Charles Katz was engaged in transferring wagering information from Los Angeles to Miami and Boston. He transferred this information by placing calls from a public telephone booth in violation of a federal statute. The FBI became suspicious of his activities and placed an electronic listening and recording device on the outside of the public phone booth he regularly used. They used the information gained from the recording to convict him of violating the federal statute that prohibited the transportation of betting information by wire communication facility across state lines. He was found guilty. The Court of Appeals affirmed the conviction, and he appealed to the United States Supreme Court.

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DECISION: *Katz v. United States*

Issue: Was the admission of the tapes into evidence a violation of Katz's rights under the Fourth Amendment?

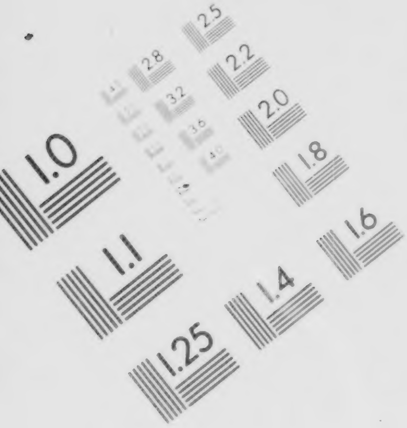
Decision: Yes. The Supreme Court ruled that the method in which the evidence was obtained violated Katz's constitutional rights.

Reasoning: The United States Supreme Court held that "what a person knowingly exposes in public, even in his own home or office, is not a subject of Fourth Amendment protection, but what he seeks to preserve in private, even in an area accessible to the public, may be constitutionally protected."

In entering the phone booth, Katz was attempting to avoid the "uninvited ear" and "did not shed his right to do so simply because he made his calls from a place where he might be seen. No less than an individual in a business office, in a friend's apartment, or in a taxicab, a person in a telephone booth may rely upon the protection of the Fourth Amendment."

In dealing with the question whether the search and seizure conducted in this case complied with constitutional standards, the Court concluded:

They [the FBI agents] were not required, before commencing the search, to present their estimate of probable cause for detached scrutiny by neutral magistrate. They were not compelled, during the conduct of the search itself, to observe precise limits established in advance by specific court order. Nor were they directed, after the search had been completed, to notify the authorizing magistrate in detail of all that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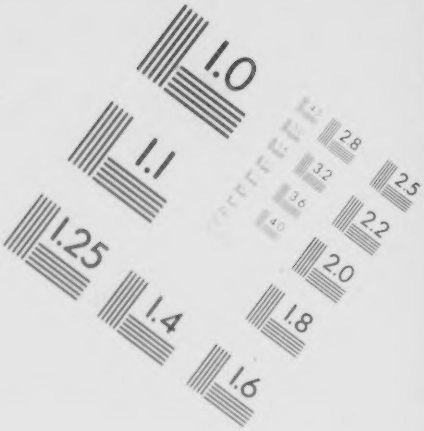
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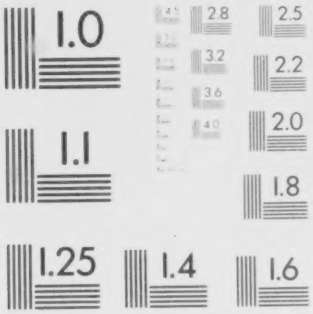
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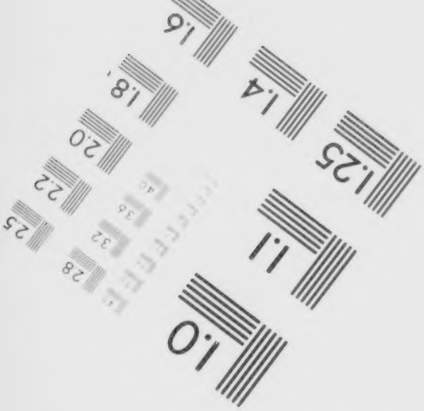
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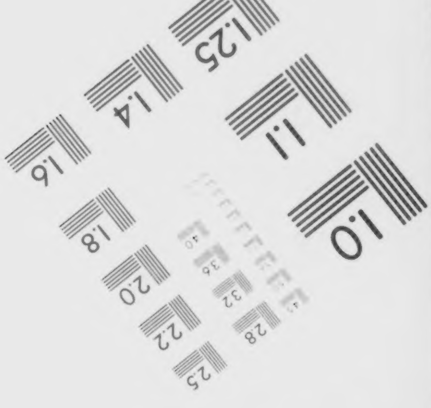
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had been seized. In the absence of such safeguards, this Court has never sustained a search upon the sole ground that officers reasonably expected to find evidence of a particular crime and voluntarily confined their activities to the least intrusive means consistent with that end.

## *Rochin v. California*
## 342 U.S. 165(1952)

FACTS

The police had some information that Antonio Richard Rochin was selling narcotics. Three deputy sheriffs went to his house to investigate. They entered the house after finding the outside door open, went upstairs and forced open the door to the bedroom of Rochin and his common-law wife. When they entered they found Rochin sitting partly dressed on the side of the bed upon which his common-law wife was lying. The deputies noticed two capsules lying on the nightstand and asked, "Whose stuff is this?" at which point Rochin grabbed the capsules and put them in his mouth. They handcuffed him and took him to a hospital and had a tube inserted in his stomach which induced vomiting. The two capsules were found in the vomited matter. Then they were analyzed, they turned out to be morphine.

Rochin was brought to trial before a California Supreme Court on the charge of possessing a preparation of morphine, which was a violation of the California Health and Safety Code. The chief evidence against him was the two capsules. He was found guilty. The conviction was upheld by the California District Court of Appeals, and the Supreme Court of California refused to hear the case. Rochin appealed to the United States Supreme Court.

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DECISION: *Rochin v. California*

Issue: Was the evidence obtained by the police a violation of Rochin' rights under the Fourth Amendment and thus inadmissible in court?

Decision: Yes. The United States Supreme Court ruled that the conviction of Rochin was based on evidence which had been obtained by methods that offended the Due Process Clause of the Fourteenth Amendment and thus reversed the decision of the lower courts.

Reasoning: The Supreme Court stated theat the methods used "do more than offend some fastidious squeamishness or private sentimentalism about combatting crime energetically. This is conduct that shocks the conscience. Illegally breaking into the privacy of petitioner, the struggle to open his mouth and remove what was there, and forcible extraction of his stomach's contents -- this course of proceeding by agents of government to obtain evidence is bound to offend even hardened sensibilities. They are methods too close to the rack and the screw to permit constitutional differentiation.

## *United States v. Leon*
104 S.Ct. 3405(1984)

FACTS

The police received a search warrant from a magistrate authorizing them to search Mr. Leon's residence and automobile for cocaine, methaqualone tablets, and miscellaneous narcotics paraphernalia.

The officers' application for a warrant was based, in part, on information that was over five months old by the time it was relayed to the police, supplied by a confidential informant of unproved reliability. The police conducted an independent investigation on the basis of this tip. The additional information gathered by the police failed to corroborate the details of this informant's tip.

Pursuant to this warrant, the officers seized large quantities of cocaine, methaqualone tablets, and certain paraphernalia. On the basis of this and other evidence, Leon was charged with the possession and intent to distribute cocaine and methaqualone. He appealed his conviction.

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DECISION: *United States v. Leon*

Issue: Did the fact that the search warrant was improperly issued require the trial court to suppress the evidence under the "exclusionary rule?"

Decision: No. Evidence obtained as a result of an improperly issued search warrant is admissible so long as the police officer was acting in "good faith."

Reasoning: There are four points to Justice White's majority opinion:

1) The Fourth Amendment's exclusionary rule should not be applied to bar the use, in the prosecution's case, of evidence obtained by police officers acting in reasonable reliance on a search warrant issued by a detached and neutral magistrate which ultimately is found to be invalid.
2) Suppression of evidence is appropriate where officers have no reasonable ground for believing that the warrant was properly issued.
3) The officers' reliance on the magistrate's determination of probable cause in that instant case was objectively reasonable.
4) The standard of reasonableness is an objective one.

White drew heavily upon previous cases to establish the fact that the Court had made a number of exceptions to the exclusionary rule. Example: "The Fourth

Amendment contains no provision expressly precluding the use of evidence obtained in violation of its commands, and an examination of its origin and purposes makes clear that the use of fruits of a past unlawful search or seizure work[s] no new Fourth Amendment wrong." (*U.S. v. Calandra,* 94 S. Ct 613.)

White focused on the exclusionary rule as a deterrent to police misconduct. He did not consider it tied in with the constitutional rights of the individual. "The rule thus operates as a judicially created remedy designed to safeguard Fourth Amendment rights generally through its deterrent effect, rather than a personal constitutional right of the person aggrieved." (*U.S. v. Calandra*, at 620)

The exclusionary rule was designed to deter police misconduct, not punish the errors of the judge or magistrate. There is no evidence to suggest that the judge or magistrate was inclined to ignore or subvert the Fourth Amendment. There is no basis for believing the exclusion of evidence seized pursuant to a warrant will have significant deterrent effect on a judge or magistrate who happened to issue an improper search warrant. It is the magistrate who happened to issue an improper search warrant. It is the magistrate's responsibility to determine whether the officer's allegations establish probable cause and not the officer's duty to decide whether or not the resulting warrant was properly issued.

Dissenting Opinion:
In his opinion, Brennan stated that the "right to be free from the initial invasion of privacy and the right of exclusion are coordinate components of the central embracing right to be free from unreasonable searches and seizures." The primary purpose of the exclusionary rule is to protect the constitutional rights of an individual whose privacy has been invaded in violation of the Fourth Amendment. That person has a right grounded on the Fourth Amendment to prevent the government from subsequently making use of any evidence so obtained.

He criticized White for attempting to draw a distinction between the work of the courts and the police. He states that in White's opinion the "courts are not subject to any direct constitutional duty to exclude illegally obtained evidence, because the question of the admissibility of such evidence is not addressed by the Amendment. This view of the scope of the Amendment relegates the judiciary to the periphery." Based on White's opinion, Brennan claims that while the "connection between the evidence-gathering role of the police and the evidence-admitting function of the courts is acknowledged, the plausibility of the Court's interpretation becomes more suspect." He goes on to state that if the "Amendment is to have any meaning, police and the courts cannot be regarded as constitutional strangers to each other because the evidence-gathering role of the police is directly linked to the evidence-admitting function of the courts. An individual's Fourth Amendment rights may be undermined as completely by one as by the other." The Fourth Amendment prohibits admitting evidence through an improper search warrant issued by a judge or magistrate as well as evidence secured by misconduct on the part of the police.

## *New Jersey v. TLO*
105 S.Ct. 733 (1985)

FACTS

On March 7, 1980, a teacher in Piscataway High School in New Jersey found two girls smoking in a restroom. Since this was a violation of school rules, the teacher took the two students to the principal's office. The Assistant Vice Principal questioned the two girls separately. One student admitted she had been smoking. T.L.O. denied she had been smoking in the restroom and claimed she did not smoke at all.

The Assistant Vice Principal asked to see T.L.O.'s purse. When he opened the purse he found a pack of cigarettes and also noticed a package of rolling papers. From his experience he knew that the possession of rolling papers was commonly associated with the use of marijuana, so he searched the purse more thoroughly. He found a small quantity of marijuana, a pipe, several empty plastic bags, a substantial amount of money, a card that appeared to be a list of students who owed T.L.O. money, and two letters that implicated T.L.O. in marijuana dealing.

Thereafter, the State brought delinquency charges against T.L.O. in juvenile court. T.L.O. moved to suppress the evidence that was found in her purse, claiming that the search by the Assistant Vice Principal violated her rights under the Fourth Amendment. The trial court allowed the evidence to be introduced. On appeal, the New Jersey Superior Court affirmed the trial court, ruling that there had been no Fourth Amendment violation. The New Jersey Supreme Court reversed and ordered the suppression of the evidence found in TLO's purse, holding that the search violated her Fourth Amendment rights.

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DECISION: *New Jersey v. TLO*

Issue: Did the Assistant Vice Principal's search of T.L.O.'s purse violate her Fourth Amendment right to be protected from unreasonable searches and seizures?

Decision: No. The Assistant Vice Principal's search was reasonable under the Fourth Amendment.

Reasoning: The United States Supreme Court held that the Fourth Amendment's prohibition against unreasonable searches and seizures applies to searches conducted by public school officials. In carrying out searches pursuant to disciplinary policies mandated by state and local government laws, school officials act as representatives of the state.

According to the Court, school children have a legitimate expectation of privacy in those items they bring onto school grounds. The Court, however, noted that school officials have a responsibility to maintain discipline and a "sound educational environment." Thus it is necessary to strike a balance between the school child's legitimate expectation of privacy and the school's equally legitimate need to maintain an environment in which learning can take place.

In striking this "balance" the Court concluded that the warrant requirement of the Fourth Amendment was "unsuited to the school environment." "[R]equiring a teacher to obtain a warrant before searching a child suspected of an infraction of school rules (or of the criminal code) would unduly interfere with the maintenance of the swift and internal disciplinary procedures needed in the schools."

Furthermore, the Court concluded that the "school setting also requires some modification of the level of suspicion of illicit activity needed to justify a search." Ordinarily a search must be based on "probable cause" to believe a violation of the law has occurred. That standard, however, is not required in all situations. Schools require a lesser standard to accommodate the "privacy interests of schoolchildren with the substantial need of teachers and administrators for freedom to maintain order in the schools." Thus, "the legality of a search of a student should depend simply on the reasonableness, under all circumstances, of the search."

The Court concluded that a search of a student by school officials is constitutionally permissible when:

1) there are "reasonable grounds for suspecting that the search will turn up evidence that the student violated or is violating either the law or the rules of the school," and

2) the search methods and measures adopted by the official "are reasonably related to the objectives of the search and are not excessively intrusive in the light of the age and sex of the student and the nature of the infraction."

# *Solving the Problems at Animal Farm*

by John Rahner Bohannon, Vermont Academy, Saxtons River, VT

## INTRODUCTION

This lesson involves students role playing various solutions to the situation presented in the book Animal Farm through the use of conflict resolution techniques. This lesson is used as an introduction to the primary techniques of conflict resolution; students must already be generally familiar with those techniques.

## OBJECTIVES

The goals of this lesson are to:

1. Examine the spectrum of conflict resolution techniques available in any conflict situation.
2. Assist the students through role playing in understanding the situations in which the various techniques are appropriate.
3. Assist the students in developing the skills of role playing and brainstorming.

## TIME REQUIRED

three class periods

## MATERIALS

All students will need a copy of Animal Farm, or a copy of the first chapter (roughly nine pages, depending on the edition used).

## PROCEDURES

1. Introduce the class by listing on the board some of the main conflict resolution techniques, such as:

Consensus
Mediation
Arbitration
Adjudication
Negotiation
Civil Disobedience
Violence (not really a resolution technique)

2. Ask the students to define and give a hypothetical example of each one in practice. Make sure they are specific; it might help to use historical examples to be sure of their understanding.

3. Explain that over the next several class periods the students are going to experience each of these techniques through the role playing. (Explain role playing if necessary). The situation for the start of all the plays will be that contained in the first chapter of Animal Farm by George Orwell.

4. If the students have the book, have them look through it, noting especially that this is a fable in which biological reality is discarded for the purpose of illustrating political verities. You should explain something about the book's fame and the author, but not the plot of the story. If the students do not have the book, provide them with copies of chapter one. Explain the book as above.

5. For homework, ask the students to read the first chapter of the book. Assign one third of the class the task of concentrating on the roles of the animals - how do they view the conflict portrayed in

the book? One third of the class should try to take on the perspective of the farmers: how do they feel about the situation and the animals in general? The last one third should be as objective as possible and just try to understand the facts of the situation.

6. The next period should begin with the students separated into the three groups described above. Explain that the class is now going to try different ways of resolving the conflict portrayed in the book. Also appoint one or two students in each group to take notes on how successful each attempted technique is, what the prerequisites for success are, and whether any avenues appearing to lead to the resolution of the conflict were missed during the role plays and why.

7. Select a couple or more students to be spokesanimals and two to be Mr. Jones and another like-minded farmer. (Remind the players of what their attitudes are according to the book.) Role play an attempt at consensus-building by the animals. Observe the role play; make sure the note-takers are busy; let the role play proceed to a natural stopping point. Complement the students on their efforts. Using the note-takers as leaders, critique the lessons learned about consensus building as a conflict resolution technique. Focus on the need for both sides to want to solve the conflict, to essentially remove the idea of "sides".

8. Repeat this process with as many of the techniques as desired. Be sure to point up the nature of any arbitrators or judges used (from the third group): they are human, not animal. If civil disobedience is used, the animals should only meet with the humans and explain what exact form their disobedience will take and what their goals are. There is no need to go to war -- that is in the book.

9. At the end of the role playing, be sure to spend adequate time (perhaps one period) comparing the ingredients necessary for the success of each of the techniques explored. This is the main focus of the lesson.

10. If the students have read the whole book, they can write an essay describing how the ending might have differed if violence had not been used at the start of the conflict.

## TIPS FROM THE TEACHER

a. If a stage were available, it might add to the class. Also, a video camera to record the plays might allow for review of particularly critical moments.

b. Many students will have already read this book, but certainly not from this perspective. In fact, it might be better to schedule this class after all the students have read the book in some other class, such as English, to insure overall familiarity with the plot and characters. Reading the whole book would probably affect the quality of the role play.

## EVALUATION

Each student should select a real-world conflict from his or her school experience or from the local newspaper, and then apply his or her understanding of conflict resolution/management to that conflict. The product should be a minimum 250-word paper defining the conflict and then using one conflict resolution/management technique to spell out a strategy to the parties to that conflict to resolve it without violence.

## NOTE

Animal Farm is available as a Readers' Theatre play - Animal Farm: A Fable in Two Acts, adapted by Nelson Bond from the book by George Orwell. New York: Samuel French, Inc. 45 West 25th Street, New York, NY 10010. (212) 206-8990. Paper bound. Teachers will need nine copies to cover the roles in the play and the teacher's copy.

## CURRICULUM INTEGRATION

Divide the class into teams: Science Team, Art Team, Music Team, English Team, Mathematics Team, etc. Each team should interview one or two teachers in its subject specialization about (1) the kinds of conflicts which arise in these subject matter fields, and (2) how specialists in these fields resolve or manage these conflicts. The teams should report to the class and the class should discern the similarities and differences in the ways specialists confront conflicts and deal with them.

Contact a county judge to get the names of volunteer dispute resolution workers in the civil division of county court. Invite some to class to discuss dispute (or conflict) resolution techniques. The video-production class might do a production. English classes might write persuasive passages on peaceful conflict resolution. Journalism classes might write a newspaper story on the county court program. Mathematics students might gather data and analyze it for increases in the use of dispute resolution over time in your county, the percentage referred to resolution over those cases heard by a judge, gender differences in the resolution referral over the court judgment, etc.

*This lesson distributed through the Warren E. Burger National Repository for Educational Materials on Citizenship and the Constitution Center for Research and Development in Law-Related Education. 1-800-437-1054. Lesson Number: 70863A.*

# *Strategies for Inquiry: Using the Law Library*

by
John Burton, Pinellas Park High School, Pinellas Park, FL
Margaret Cleghorn, Clearwater High School, Clearwater, FL
Valerie McElveen, Lakewood High School, St. Petersburg, FL
Rod Palmateer, St. Petersburg High School, St. Petersburg, FL

## INTRODUCTION

The authors of this lesson are unanimous in their opinion of the value of using law libraries in the Law Studies Course. Students will be able to choose from a rich variety of Supreme Court landmark cases to do their research. It may add excitement to class presentations if students pair off and present opposing sides of the cases in oral reports.

## OBJECTIVES

After completing the lesson activities, students may be expected to understand the value of student inquiry in such areas as:

1. Reflecting on the legal interpretation of great scholars.
2. Fostering intellectual growth by transforming students from passive to active learners.
3. Experiencing the excitement of independent research.
4. Learning to use a variety of materials, i.e. legal case studies.
5. Examining actual law cases to understand the basic principle underlying the operation of law.
6. Breaking down cases into their constituent elements.

## TIME REQUIRED

three hour field trip to a law library

## MATERIALS

Handout A: Research Guide

## PROCEDURES

For an example of research, we will examine the landmark case, *Gideon v. Wainwright.* The first stop at the law library will be the United States Supreme Court Digest (West). The set of books will list alphabetically all cases that went to the Supreme Court since 1944. The Gideon case will appear as:

*Gideon v. Wainwright*, 372 US 335, 9 L ed 2d 799, 83 S Ct 792,93 ALR 2d 733.

The reference is known as a *citation*, which always begins with the name of the case. The first name mentioned will be the name of the defendant who lost in the original trial, i.e., **Clarence Earl Gideon**, the appellant. His name is followed by v. meaning *versus* or *against*. The name of the party who won the original trial is the last in the citation. **Louie L. Wainwright**, Director of the (then Florida) Division of Corrections, is the party complained against, or appellee.

When a student prepares a landmark case for a class presentation or a moot court pleading, the most useful source will be: 9 L ed 2d 799. Since we are researching the Gideon case, this citation refers to Volume 9 of the series abbreviated L ed 2d, U.S. Supreme Court Reports Edition. In this text the headnotes are set off in topic headings. These are valuable reference aids. They are short excepts from the opinions written by the Justice who wrote the majority opinion. The student will find other relevant legal subjects which can be used to find both general information and other cases which deal with the same topic.

In the Lawyers' Edition of *Gideon v. Wainwright*, some topic headings are "Criminal Law - Constitutional guarantees applicable to states," and "Criminal Law - accused's rights to counsel - in state trial." The student could then look up these subjects in the card catalog and other types of legal references in addition to the Court Reporters.

In the same way that the Reader's Guide to the Periodical Literature is used, the law library has the Index to Legal Periodicals. Articles by the finest scholars will be located here in such journals as the Harvard Law Review.

It is good for students to read the actual words of the Justices and to discover that these great judges speak in understandable English. In the Gideon case, Associate Justice Hugo Black, speaking for the seven justices in the majority opinion in 1963, begins by reviewing the history of the case. He refers to a decision in 1942, *Betts v. Brady*, which stated that the Fourteenth Amendment did NOT require states to appoint counsel for poor defendants, except where special circumstances existed, such as illiteracy, ignorance, youth, or mental illness on the part of the defendant or where the complexity of the charge against him or the behavior of the prosecutor created special hazards. He concluded that the Betts decision was in error:

". . .[R]eason and reflection require us to recognize that in our adversary system of criminal justice, any person hauled into court, who is too poor to hire a lawyer, cannot be assured of a fair trial unless counsel is provided for him. This seems to be an obvious truth. . .

That government hires lawyers to prosecute, and defendants who have the money to hire lawyers to defend them are the strongest indications of the widespread belief that lawyers in criminal courts are necessities, not luxuries. . . From the very beginning, our state and national constitution and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble idea cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him. . .

Florida, supported by two other States, has asked that *Betts v. Brady* be left intact in twenty-two States, as friends of the Court argue that *Betts* was 'an anachronism when handed down' and that it should be overruled. We agree.

The judgement is reversed and the case remanded to the Supreme Court of Florida for action not inconsistent with this opinion."

*Gideon v. Wainwright*, 372 U.S. 338 (1963)

EVALUATION

The evaluation is inherent in the student products from their trip to the law library.

CURRICULUM INTEGRATION

Students should be familiar with research strategies in the regular public library and school media center prior to the law library field trip. The school media center director (librarian) might do a presentation for students with practical applications/exercises weeks prior to the law library experience.

*Reprinted from Law Studies for Senior High School, Pinellas County.*

## HANDOUT A

### Research Guide

In researching a landmark case at the law library be sure to find the answers to the following questions:

1. What is the exact citation code of your case?

2. What is the full name of the party who originated the suit?

3. When did the Supreme Court give its opinion? Which Justice wrote the opinion? Were there any dissenting opinions?

4. State briefly the facts in the case. Who did what to whom, when did it happen, and what were the circumstances?

5. What were the legal issues or principles in the original trial?

6. What were the legal arguments of each side?

7. What was the verdict of the lower court?

8. On what grounds was the case appealed?

9. What was the major significance of the case; was any legal standard established, settled, or developed?

10. Were precedents cited, charged, or overturned?

11. What happened to the people involved in the case?

# *Student Government*

by Connie Hankins, Carol City High School, Dade County Public Schools, Miami, FL

## INTRODUCTION

Student government positively affects the learning climate of a school when it is given the opportunity for active and constructive involvement in its daily operation. The important issues of the day are expressed and discussed, and action plans are developed in a forum in which the total school community shares responsibility. The following critical-thinking lesson is designed to motivate students to analyze their perspectives of a student government.

## OBJECTIVES

As a result of this lesson students will be able to:

1. Define **student government** and **student conduct code**.
2. Give three reasons why the school has a student government.
3. Give reasons why the presence of student government is linked to the school's code of student conduct and to civic education.
4. Give appropriate and inappropriate ways to voice concerns in the school context and reasons for their appropriateness or inappropriateness.

## TIME REQUIRED

two class periods

## MATERIALS

your school's Code of Conduct

## PROCEDURES

1. Read the following story and discuss the questions in terms of your school's Code of Student Conduct:

> Olivia and Robert were talking about their unhappiness with the school rules. They decided to go to the principal and complain. When the principal's secretary told them the principal was at a meeting, the students decided to form a group with other students and meet outside of school to list all their complaints. They didn't ask any adult from the school for assistance and chose only their friends to participate in the meeting. When they returned to school, they passed around copies of their complaints to students and called for a mass walkout.

2. Make a list of the ways Olivia and Robert followed or failed to follow the Code of Student Conduct regarding student government.

3. Why is there a need for a formal student government with specific procedures in school?

4. Had Olivia and Robert brought their concerns to the student council in school, what results could they have accomplished?

5. Why it is important to have a faculty advisor for a student government?

6. Under Olivia and Robert's plan, was it expected that all students would be represented?

7. Are student governments expected to take a positive or negative role in the school process? Why or why not?

8. Why is it that student government members have the right to attend student government meetings during school hours?

9. What guideline does the school's Code of Student Conduct stipulate regarding election campaigns for student government?

10. Students have both rights and responsibilities regarding student government. School Board Rules and individual school policies should be at the students' disposal in a specific location at the school. What is the best place your school?

## EVALUATION

Students can work in groups of 3 to 5 and role-play the scenario above. They should include some problems they have at their school. The role-play should allow them to see if it is more effective to work within the channels available in the school for voicing their complaints, or to go outside those channels.

## CURRICULUM INTEGRATION

Interview the school principal on the purpose and proper function of Student Government in any high school. Report to the class.

Interview ten students (a cross section of the student body) on the purpose and function of student government in any high school. Report to the class.

Write a letter to the student government president in your school requesting a copy of the group's constitution and its agenda for the current school year.

Write a business letter to the National Council for the Social Studies, 3501 Newark Street, NW, Washington, D.C. 20016 to request a copy of that organization's statement on Student Government and Democratic Civic Education.

*This lesson distributed through the Warren E. Burger National Repository for Educational Materials on Citizenship and the Constitution Center for Research and Development in Law-Related Education. 1-800-437-1054. Lesson Number:* 70423A/89449.

# *The Supreme Court of Florida: The State's Court of Last Resort*

by Cynthia Brendle, Zephyrhills High School, Zephyrhills, FL

## INTRODUCTION

The Florida Supreme Court serves as the state's court of last resort. As the highest court in Florida, it sits at the capitol complex in Tallahassee and has state-wide jurisdiction. Florida's first state Supreme Court was created by Florida's first constitution in 1838, but was not actually established until 1845 when Florida achieved statehood. The administrative structure, procedural authority, and jurisdiction of today's Supreme Court is set forth in Article V of the Constitution of the State of Florida.

## OBJECTIVES

As a result of this activity, students will be able to:

1. Explain the jurisdiction and procedures of Florida's Supreme Court.
2. Develop and deliver a mock oral argument.
3. Conduct a moot court.

## TIME REQUIRED

two to three class periods

## MATERIALS

Handout A: Florida Supreme Court
Handout B: Procedure for Hearings
Handout C: Florida Statute 800.04
Handout D: *Jones v. State, Rodriguez et al. v. State* Case
Handout E: The Court's Decision

## PROCEDURES

1. Discuss the Florida Supreme Court's Background and Jurisdictions (Handout A).
2. Discuss the Procedure for Hearings (Handout B).
3. Discuss Florida Statute 800.04 (Handout C).
4. Pass out a copy of *Jones v. State, Rodriguez, et al v. State* case (Handout D). Have the students read the case. Discuss the facts, issues, and lower court decisions.
5. Divide the class into three groups, with one group having seven students. Assign each group a part: justices (the group with 7 students), attorneys for the petitioners, and attorneys for the state of Florida. Choose one student to be clerk and another to be the marshal. The clerk will keep time, and the marshal will announce the convening of court.
6. Each group is to discuss the case according to its role. Remind students that they are to use Constitutional answers. They will have about 15 minutes to prepare. Each attorney-group should choose a spokesperson.
7. Convene in a Supreme Court setting. Justices should be in front of the room with the opposing groups facing them. Each side will have a set amount of time to present arguments - about five minutes is usually sufficient. After presentations, the "justices" retire to make their decision. The decision should be backed up with references to other cases.
8. Share the Court's decision with the students (Handout E).
9. Discuss the Court's decision and reasoning. Compare their judgment and reasoning to the real decision by the Florida Supreme Court. Discuss any questions or concerns the students may have.

EVALUATION
The students' performance and their debriefing discussion in #9 above provide ample opportunity for teacher assessment of student learning.

NOTES OF INTEREST
The Court receives about 2000 matters per year. This includes petitions for habeas corpus.

The Court issues about 300 opinions a year.

The Court actually hears cases about 10 weeks a year.

Twenty-one cases a week is considered a full week, but in a typical week the Court hears 19 - 20 cases.

Amicus curiae briefs - friends of the court - may be filed when the matter to be heard is of interest to that party. They, the friends of the court, are not a party to the case. If any attorney wishes to give part of his/her allotted time to the friends of the court, the petitioner or respondent is permitted to do so. The Court permits the "friends" to speak, but they do not have a right to speak.

The petitioner always goes first and can reserve any amount of the time for a rebuttal.

The respondent has the same amount of time but cannot reserve any of his/her time.

The Chief Justice may extend time if questions use up time. The twenty minute rule is flexible only if the Court decides for it to be.

CURRICULUM INTEGRATION
Write a business letter to a local judge on the legal issues in this case or on questions which arise about the process of hearing appeals.

Write a business letter to the local bar association asking about other rights which may be delayed due to being underage (the age of majority being 18). Cite the delay involved in the *Jones v. State* and *Rodriguez, et al v. State*, which are used in this lesson.

The computer teacher can help students research the history of clemency in Florida as well as the status of current cases via the Internet. Student can prepare a brief advocating the support or refusal of clemency for a particular case.

**Childhood** and **youth** are linked to our ideas of physical (biological) maturation, and over the generations the number of years the human species has taken to mature has changed. Students might discuss this with the Biology teacher or with local physicians. What is physical maturity? How long does it take? How long did it take? Why did this time period change over time?

**Childhood** and **youth** are time periods which are socially constructed, not fixed in nature. How do we today construe childhood? What is a child? How should society, in our view, treat children? Discuss "childhood" with history teachers to discern whether the view of "child" and "childhood" may have been different in early American history? During the Middle Ages in Europe? Or at other times and places? (Hint: At other times and places, when were females perceived as ready for marriage? For child-rearing?)

# HANDOUT A

## Florida's Supreme Court

### BACKGROUND

The Supreme Court serves as the state's court of last resort. The highest court in Florida, it sits at the capitol complex in Tallahassee and has statewide jurisdiction. Florida's first state Supreme Court was created by Florida's first constitution in 1838, but was not actually established until 1845 when Florida achieved statehood. The administrative structure, procedural authority, and jurisdiction of today's Florida Supreme Court is set forth in Article V of the Constitution of the State of Florida.

The Supreme Court is charged with the responsibility of adopting rules for the practice, procedure, and administrative supervision of all courts, both at appellate and trial levels. However, these rules may be repealed, if necessary, by a general law enacted by a two-thirds vote of membership in each house of the legislature.

The Supreme Court consists of seven justices, each of whom is appointed to serve a term of six years. Each of the appellate districts is represented by at least one justice appointed by respective districts. In 1976, the voters of Florida amended the Constitution to establish a merit selection and retention system for choosing a justice of the Supreme Court. The justices are appointed by the Governor from a list of qualified persons recommended by a judicial nominating commission. The Chief Justice is chosen by a majority vote of the Court for a two-year term beginning in July of every even numbered year. Whenever the Chief Justice is absent, the most senior justice present becomes acting Chief Justice and may exercise any and all powers of that office.

As the office term ends, the name of the justice who desires to continue in office is listed on a ballot during general election for a merit retention vote. If the majority of votes are not in favor of the incumbent justice, the Governor appoints another person for the list of applicants approved by a judicial nominating commission.

When Supreme Court Justices are meeting to review cases brought before them, the concurrence of four justices is necessary for a decision and five justices are required to constitute a quorum. Powers and jurisdiction are exercised by the Supreme Court *en banc* (i.e. seven justices) for appeals involving capital cases, the validity of a state or federal statute, or to provisions of the Florida or federal constitution.

The Supreme Court also has supervisory responsibility over The Florida Bar. Florida has an integrated Bar, meaning that all lawyers admitted to the practice of law in Florida must be members of the official professional association which is under the

Court's constitutional authority to regulate. The Bar assists the Court in various ways, such as providing recommendations regarding appropriate disciplinary action against lawyers and educational services to its members.

## JURISDICTION

Jurisdiction of the Supreme Court, as set forth in Article V of the Constitution of the State of Florida, extends to the following matters:

1. Appeals from final judgements of trial courts imposing a penalty of death and from District Court of Appeals decisions which declare a state statute of a provision of the state constitution invalid.
2. Appeals from final judgements involving the validation of bonds or certificates of indebtedness and decisions by the Public Service Commission involving electric, gas, or telephone service.
3. Decisions by a District Court of Appeals which expressly construe a provision of the state or federal constitution, declare valid a state statute, affect a class of state or constitutional officers, or directly conflict with another District Court of Appeals or Supreme Court decision on the same question of law.
4. Pending matters in a District Court of Appeals which are certified to be of great public importance or which have a great affect on the proper administration of justice throughout the state.
5. Questions of law certified by the Supreme Court of the United States or a United States Court of Appeals for which there are no controlling precedents in the Supreme Court of Florida.
6. Writs of prohibition to courts, all writs necessary to complete the exercise of its jurisdiction, writs of mandamus and quo warrant to state agencies and officials, and writs of habeas corpus.

## HANDOUT B

### Procedures for Hearings

### PRE-ARGUMENT PROCEDURES

1. Oral arguments are generally scheduled for the first full week of each month, except that no oral arguments are heard on state holidays or during the months of July and August.
2. A least two weeks before the first day of the month in which oral argument has been scheduled, the case file goes to the office of the assigned justice. The justice is assigned when the case is accepted for oral argument.
3. A law clerk in that office summarizes the briefs in a memorandum for use on the bench and circulates it to each justice.
4. Not later than the Thursday of the week preceding oral argument, the clerk's office furnishes each justice a copy of the briefs filed in each case scheduled.
5. The reporter of decisions prepares a brief summary on each oral argument case which is available to the public a few days prior to oral argument.

### ORAL ARGUMENT PROCEDURES

Oral argument begins at 9:00 a.m. At 8:50 the justices assemble in the robing room to don their robes for the bench. At 9:00 the justices enter the courtroom from behind the bench, led by the Chief Justice or acting Chief Justice, in order of seniority. Seating alternates from right to left based on seniority. All justices remain standing until the Chief Justice indicates that all justices are in place.

Each side is given 20 minutes with 30 minutes allowed for a death penalty case. The division for argument between co-counsel or among multiple counsel on one side of a case, and between counsel's main presentation and rebuttal, is solely counsel's responsibility. Any justice may ask questions or make comments at any time. In order to assist counsel, however, green, white, and red lights are mounted on the lectern. The green light indicates that counsel has begun the presentation and the allotted time is running. The white light indicates that counsel has either (1) entered the time requested to be set aside for rebuttal, (2) gone into the time set aside for counsel's argument, or (3) entered the period of time near the end of the argument when notice of the time remaining has been requested. The red light indicates the counsel's time has expired, at which point counsel will be expected to relinquish the lectern.

At the conclusion of the calendar, the Court is adjourned. The justices leave the bench in the order they entered and reassemble in the conference room for a preliminary conference on the cases argued. No person may enter the conference room without the permission of the full Court.

## CONSIDERATION OF CASES AFTER ORAL ARGUMENT

After oral argument, the justices confer and take a tentative vote on the cases argued. The author of the Court's opinion or disposition is ordinarily the assigned justice, and the case file is sent to that justice. Once an opinion has been written, a facing vote sheet is attached in the author's office, and the opinion, the vote sheet, and the case file are delivered to the clerk's office.

The clerk's office reproduces the opinion and vote sheet and distributes copies to each justice. Each justice votes and writes any comments deemed appropriate on the separate vote sheet received from the clerk. If a concurring or dissenting opinion is written, that opinion and its vote sheet are also delivered to the clerk, and the clerk distributes copies of these papers to the other justices. When each justice has voted on all separate opinions, the Chief Justice takes the following action:

1. Directs the clerk in writing to file as an opinion of the Court any opinion to which four justices subscribed, provided no justice on the panel has requested discussion at a conference, or

2. If a panel lacks four concurring votes, schedules the case for discussion at the next regularly scheduled conference in order to reconcile the disparate views. If any justice has requested on the vote sheet that the case be discussed at conference, the case is placed on the conference schedule.

Copies of opinions ready for release to the public are delivered to each justice not later than Friday at noon. At any time before 10:00 a.m. the following Thursday, any justice may direct the clerk not to release an opinion. Unless otherwise directed, on Thursday morning at 10:00 the clerk releases the opinions furnished to the justices the preceding Friday. Copies of the opinions are provided to the parties, press, and others that have been directed by the Court or an individual justice free of charge.

# HANDOUT C

## Florida Statutes - Section 800.04

Any person who:

(1) Handles, fondles, or makes an assault upon any child under the age of 16 years in a lewd, lascivious, or indecent manner;

(2) Commits actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, actual lewd exhibition of the genitals, or any act or conduct which simulates that sexual battery is being or will be committed upon any child under the age of 16 years or forces or entices the child commit any such act;

(3) Commits an act defined as sexual battery under s. 794.001 (1) (h) upon any child under the age of 16 years; or

(4) Knowingly commits any lewd or lascivious act in the presence of any child under the age of 16 years, without committing the crime of sexual battery, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084. Neither the victim's lack of chastity nor the victim's consent is a defense to the crime proscribed by this section.

NOTE: You may not want to go into all of the provisions of (2). Use the parts applicable to this case - (1), (2) -commits actual sexual intercourse-, and (4).

# HANDOUT D

## *Jones v. State*
## *Rodriguez, et al., v. State*

Two young women, ages 14, had consensual sex with young men, ages 19 and 20. Neither of the victims wanted to prosecute. The charges were initiated by family members (mother or sister). At least one of the young women intended to get pregnant and have a child. During the proceedings, the young women sat in the courtroom and held hands with the young men.

In the Rodriguez case, section 800.04 of the Florida Statutes was held unconstitutional.

In the Jones prosecution, the defendant was denied the opportunity to raise consent as a defense. The court sentenced him to four and one half years imprisonment, to be followed by six months probation.

The issue in these companion cases is whether the expansive constitutional right of privacy of minors our Supreme Court announced in *In re T. W.* renders unconstitutional that portion of section 800.04, which provides that consent is not a defense to a prosecution for sexual activity with a minor under sixteen.

The District Courts of Appeal held that:

(1) defendants could assert alleged constitutional rights of their partners to privacy with respect to their sexual behavior.

(2) rights of minors to engage in sexual activity could be constitutionally delayed, without violating their constitutional privacy rights, in the same manner as voting, drinking and driving; and

(3) due to its importance, the question would be certified to Supreme Court as a question of great public importance.

## HANDOUT E

### *Jones v. State; Rodriguez et al., v. State*
### Decision

The Florida Legislature has established an unquestionably strong policy interest in protecting minors from harmful sexual conduct. As stated in *Schmitt v. State*, "any type of sexual conduct involving a child constitutes an intrusion upon the rights of that child, whether or not the child consents...society has a compelling interest in intervening to stop such misconduct."

The Court is of the opinion that sexual activity with a child opens the door to sexual exploitation, physical harm, and sometimes psychological damage regardless of the child's maturity or lack of chastity. The petitioners argued that the statute is unconstitutional as applied because the girls in this case have not been harmed; they wanted to have the personal relationships with these men and they do not want the "protections" advanced by the State. However, neither the level of intimacy nor the degree of harm are relevant when an adult and a child under the age of sixteen engage in sexual intercourse. The statutory protection offered by section 800.04 assures that, to the extent the law can prevent such activity, minors will not be sexually harmed. The state unquestionably has a very compelling interest in preventing such conduct." The State has the prerogative to safeguard its citizens, particularly children, from potential harm when such harm outweighs the interest of the individual.

The petitioners contend that section 800.04 should be struck down given our decision in *In re T.W.*, in which we held that the right to privacy encompasses a minor's right to terminate pregnancy. Under the statute at issue in *T.W.*, a minor was permitted to consent with parental approval to any medical procedure involving her pregnancy of her existing child, except abortion. The rationale for declaring a right of privacy in *T.W.* was based on the fact that a minor possessed a right of privacy with respect to other types of medical and surgical procedures. *T.W.* did not transform a minor into an adult for all purposes.

The rights of privacy that have been granted to minors do not vitiate the legislature's efforts and authority to protect minors from conduct of others. Florida has an obligation and a compelling interest in protecting children from sexual activity and exploitation before their minds and bodies have sufficiently matured to make it appropriate, safe, and healthy for them.

The Court approved the decision of the district court to uphold the constitutionality of section 800.04, Florida Statutes (1991), affirming the conviction in Jones, and remanding Rodriguez and Williams for appropriate action.

# *Understanding and Dealing with School Sexual Harassment*

by Aggie Alvez, Montgomery County Schools, MD

## INTRODUCTION

The statistics are numbing: 4 out of 5 students in grades 8-11 say that they have been sexually harassed. Two in three students report being harassed in the hallway, while more than half say the harassment has taken place in the classroom. And nearly 1 in 4 students who have suffered harassment say that, as a result, they do not want to attend school.

These findings from a 1993 survey commissioned by the American Association of University Women, "Hostile Hallways: The AAUW Survey on Sexual Harassment in America's Schools," shocked an American public still struggling with the aftermath of the Clarence Thomas/Anita Hill episode. While most of the attention first focused on the behavior of adults in the workplace, school administrators were beginning to confront an unsettling reality: students felt unsafe at school because of the pervasiveness of sexual harassment. School systems began to pay even closer attention after the U.S. Supreme Court ruled in 1992 that students who suffer sexual harassment can seek monetary damages from schools and school officials.

Increasingly, schools are implementing sexual harassment policies and guidelines for addressing complaints. Some, like the Montgomery County, Maryland, public School System, are developing comprehensive measures to prevent sexual harassment. In Montgomery County, the school system has embarked on an ambitious plan to provide in-service training to all its 13,000-plus employees as well as a massive education campaign to reach all its students. Starting in elementary school, respect and appreciation for self and others will be emphasized as the foundation for appropriate social behavior. In addition, the superintendent has appointed a special Commission on Sexual Harassment in Education, comprised of community members, students, and staff, to review the school system's implementation of the policy.

Schools are recognizing that an essential component of any sexual harassment policy is education for prevention. The following lesson is an important beginning in helping teachers and students take a critical look at this important issue.

## OBJECTIVES

As a result of this lesson, students will:

1. Define sexual harassment and cite the applicable laws for the workplace and the school.
2. Identify behavior that may constitute sexual harassment.
3. Describe the effects of sexual harassment on the victim, the harasser, and the school community.
4. Cite procedures to follow if harassment occurs.
5. Analyze scenarios and case studies to determine if sexual harassment took place and identify appropriate measures for preventing future harassment.

## TIME REQUIRED

five to seven class periods

## MATERIALS

Student Handouts A-E

## PROCEDURES

1. Explain to the class that for the next couple of days you will be discussing sexual harassment. In order to give you an idea about their knowledge of the topic, distribute Student Handout A, "What Do I know About Sexual Harassment?" Ask students to complete the handout. Discuss the answers with them. Answers to Student Handout A appear at the end of these procedures.
2. Distribute and discuss Student Handout B "Sexual Harassment: The Law" and "Definition of Sexual Harassment."
3. Distribute Student Handout C, "Is It Sexual Harassment?" Divide the class into groups of 3-5 students, and have each group assign a recorder/reporter to document and analyze the responses and report back to the class.
4. After discussing the answers to Student Handout C, ask the groups to brainstorm a list of behaviors they think constitute flirting. Record their answers on the chalkboard/flip chart. Next, ask the groups to brainstorm a list of behaviors they think constitute sexual harassment. Record their answers on the chalkboard/flip chart. Possible answers to this exercise appear at the end of the lesson.
5. Ask the class to compare the answers on the lists. What are the major differences and similarities? What feelings are associated with flirting? With sexual harassment? Can flirting turn into sexual harassment?
   *Note:* Explain to students that flirting usually generates positive feelings for both parties, while sexual harassment invokes negative feelings in the party being harassed. Flirting involves some form of sexual attraction, while sexual harassment involves an abuse of power. The key question to ask in determining whether certain behavior constitutes sexual harassment is: How does the alleged victim feel about the behavior? The law focuses on the behavior's *impact* on the victim, not on the harasser's *intent*. What may start out as flirting can cross the line if the person on the receiving end feels embarrassed, intimidated, or abused.
6. In light of this discussion, ask the students if any of them want to change the responses they gave in Student Handout C. Next, ask the class to chart the scenarios from Handout C on a continuum from least offensive to most offensive types of behavior related to sexual harassment.
7. Divide the class into pairs, and ask each pair to generate a list of possible reasons why sexual harassment occurs. Record and discuss the responses. Possible answers appear below.
8. Assign each pair of students one of the factors cited in 7 above. Have them give specific examples and suggest some ways they might be countered.
9. Have the class as a whole generate a list of why victims are reluctant to report sexual harassment. Ask volunteers to organize this activity and prepare the final list. Possible responses appear at the end of the lesson.
10. Divide the class into groups of 3-5. Post the following categories on the chalkboard/flip chart: PHYSICAL EFFECTS, EMOTIONAL EFFECTS, SCHOOL PERFORMANCE. Ask the students to discuss ways that sexual harassment affects the victims in these three categories. Organize answers under their categories. Possible responses appear below.
11. Distribute and discuss Student Handout D, "What to Do About Sexual Harassment." At this point, you and your class may want to review your school's sexual harassment policy and compare it to the handout. If your school has no policy, students can begin developing one to present to the administration.
12. Divide the class into small groups and distribute Student Handout E, "Sexual Harassment Case Studies." Follow the directions on the student handout.

## EVALUATION

Students can do a number of interdisciplinary activities that will allow them to take ownership of this issue and educate others in the school. To get the message out about sexual harassment, they can work with your school's language arts, art, drama, and communications departments, as well as the counselors, security unit, and media centers to:

1. Develop an educational brochure.
2. Develop public service announcements (PSAs).
3. Write, produce, and enact live or taped scenarios showing examples of sexual harassment and how to handle the incidents.
4. Create a bulletin board.
5. Sponsor Sexual Harassment Awareness Day/Week.

### ANSWER KEY: STUDENT HANDOUT A

1. TRUE --Title VII in workplace and Title IX in schools.
2. FALSE--76% of boys in grades 8-12 say they have experienced sexual harassment; about 15-30% of men say they have been harassed in the workplace.
3. FALSE--81%, or 4 in 5 students, say they have been harassed.
4. TRUE--Only 7% of students tell a teacher, while less than 5% of incidents are reported in the workplace.
5. FALSE--79% of students are harassed by other students, while 25% of girls and 10% of boys have been harassed by a school employee.
6. TRUE--Schools and school officials can be sued for damages.
7. TRUE--This can interfere with one's work performance or create a hostile environment.
8. FALSE--Of the 59% of students who say they have been harassers, 94% say they themselves have been harassed.
9. FALSE--Sexual harassment can occur if the conduct interferes with work performance or creates a hostile environment.
10. FALSE--The law protects the victim and focuses on how the victim is impacted, not on the harasser's intent.

*Exercise 4:* Catcalls, whistling, sexual comments about one's personal appearance, clothing, or the like, neck massage, kissing sounds, howling sounds, smacking lips, licking lips, deliberate touching, leaning over, cornering, pinching, personal questions of a sexual nature, staring, sexually suggestive drawings, photos, or other visuals.

*Exercise 7:* Stereotyping, media influence in perpetuating stereotypes, attitudes toward women, "boys-will-be-boys" attitude, social norms, sexist language, lack of clear communication, failure to report harassment, little or no dialog about it, no policies or procedures, little or no training and education, no consequences or penalties for offender.

*Exercise 9:* Fear of harasser/relation, embarrassment, peer pressure, feeling of helplessness or powerlessness, feeling that the complaint will not be taken seriously, lack of trust in the school, guilt about getting the harasser into trouble.

*Exercise 10: Physical effects:* stress-related symptoms such as headaches, stomach pains, loss of sleep, fatigue, nervousness, weight loss or gain, drug or alcohol abuse. *Emotional effects:* depression, anxiety, fear, anger, shame, guilt. *School performance:* inability to concentrate, reluctance to come to school, decrease in self-esteem and motivation.

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## HANDOUT A

### What Do I Know About Sexual Harassment?

Directions: Circle T for true and F for false.

T F 1. Sexual harassment is a form of sex discrimination.

T F 2. Only females can suffer sexual harassment.

T F 3. Sexual harassment is primarily a problem of the work place, not the schools.

T F 4. Most victims of sexual harassment do not report it to a person in authority.

T F 5. Most of the sexual harassment that occurs in schools involves a teacher harassing a student.

T F 6. Schools can be held liable in cases involving sexual harassment between students.

T F 7. Posting nude pictures of men/women where they can easily be seen is a form of sexual harassment.

T F 8. Students who have been the victims of sexual harassment generally do not harass other students.

T F 9. Sexual harassment must involve some sort of *quid pro quo*--a benefit in exchange for sexual favors.

T F 10.If a person only intended to flirt, then the behavior cannot constitute sexual harassment.

## HANDOUT B

### I. SEXUAL HARASSMENT: THE LAW

Sexual harassment is a form of sex discrimination under Title IX of the Educational Amendments of 1972 and under Title VII of the Civil Rights Act of 1964.

TITLE IX of the Educational Amendments of 1972 prohibits any person from being excluded from participating in, being denied the benefits of, or being subjected to discrimination on the basis of sex in any educational program receiving federal money. Title IX is enforced through the Office of Civil Rights (OCR) of the U.S. Department of Education, state departments of human rights, or private litigation.

TITLE VII of the Civil Rights Act of 1964 protects public and private employees against discrimination with respect to compensation, terms, conditions, or privileges of employment based on race, color, religion, sex, or national origin. Title VII is enforced through the Equal Employment Opportunity commission (EEOC) or state agencies.

The Civil Rights Act of 1991 allows victims of sexual harassment to recover compensatory and punitive damages from employers.

In *Franklin v. Gwinnett County Public Schools* (1992), the U.S. Supreme Court interprets the Civil Rights Act of 1991 so as to allow students who suffer sexual harassment and other forms of sex discrimination the right to seek monetary damages from schools and school officials.

### II. DEFINITION OF SEXUAL HARASSMENT

The federal Equal Employment Opportunity Commission defines sexual harassment as:

> Any UNWELCOME sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where:

1. Submission to such conduct is made, either explicitly or implicitly, a requirement of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individuals; or,
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive environment in which to work.

The two types of sexual harassment are:

Quid pro quo, or conditioning professional or economic benefits on the exchange of sexual favors (see procedures 1 and 2 above). This is the most common type of school sexual harassment.

Hostile Environment, where there is no need to show economic harm (see procedure 2 above). This is the most common type of school sexual harassment.

Remember: The focus should be on the victim and determining whether or not he/she viewed the conduct as being unwelcome.

## HANDOUT C

### Is it Sexual Harassment?

Directions: Read the following situations. Circle *Y* for yes if you think the behavior constitutes sexual harassment. Circle *N* for no if you think it does not.

Y N 1. A male teacher refers to female students as "sweetie" and "baby doll."

Y N 2. A male student comments to a female classmate, "Nice dress."

Y N 3. A female teacher demands a hug from every male student who is late to her class.

Y N 4. It is common for seventh-grade boys to snap girls' bras.

Y N 5. Third-grade girls chase their male classmates around the playground and try to pull down their pants.

Y N 6. Boyfriend and girlfriend give each other a "peck on the lips" when they part in the hall to go to their separate classes.

Y N 7. During class, a male teacher rubs the backs of several of his female students.

Y N 8. A first-grade teacher hugs one of his female students when she comes crying to him with a skinned knee.

Y N 9. A ninth-grade male regularly tells one of his female classmates that she is "flat as a board." He tells another that her "breasts are a 10."

Y N 10. Boyfriend and girlfriend kiss and fondle each other in the hallway during change of classes.

# HANDOUT D

## What To Do About Sexual Harassment

1. TALK! Tell the harasser how you feel about the conduct, and communicate that you want the behavior to stop. Be firm and direct. if you feel uncomfortable saying this to the harasser, put your feelings in writing.

2. REPORT! If the behavior continues or if the first incident is serious in nature, report the harasser to a teacher, counselor, administrator, or any other adult in authority.

3. DOCUMENT! Put your story in writing. Include the following information: who the harasser is, what the harasser did, when the incident(s) occurred, where it occurred, who the witnesses were, what you did/said in response, how the harasser reacted, and how you felt about the incident.

4. QUESTION! Does your school have a sexual harassment policy? Do you have a copy of it? Do you know and understand what it says? Are the administrators handling your complaint according to the policy? Do you know the actions taken by the administrator in your case? What will the administrator do to ensure that the incident will not be repeated?

5. REACH OUT! Enlist the support of your family and friends, and talk to your school counselor or a trusted adult in order to share your feelings about the incident. Do not blame yourself. If you feel that the school is unable to resolve the matter, you may contact the school human relations office, the superintendent of schools, the county or state human relations office, the state department of education, or the U.S. Department of Education's Office of Civil Rights.

## HANDOUT E

### Sexual Harassment Case Studies

For each case study, answer these questions:

a. Is it sexual harassment?

b. What steps should be taken?

c. What steps can be taken to prevent this from happening in the future?

1. Second-grader Tonya rides the bus home from school. Two boys in her class ride the same bus and regularly yell obscene words at her, tease her about her sex organs, and call her sexually derogatory names. She has come home in tears several times as a result of their conduct.

2. Ms. Fleming, a high school biology teacher, has recurring neck pains due to injuries she received in an automobile accident. During class, she often asks male students to massage her neck and shoulders.

3. Mark and his girlfriend Maria take a cooking class together at their high school. On several occasions, their classmates have seen them kissing, fondling, and rubbing against each other. No one has complained to the teacher.

4. Shelly, a 10th grader, teased one of her classmates about his weight problem. While poking Keith in the stomach, she said, "You'd do well to lose some of this." In response, Keith poked Shelly in the chest and said, "You'd do well to grow some of these."

5. Mr. Smith, a high school custodian, frequently stares at female students as he approaches them. His eyes scan their bodies from top to bottom; and, when they pass, he watches from behind.

# What is a Democracy?

by Dr. Phyllis Maxey Fernlund, College of Education
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## INTRODUCTION

There are many definitions of democracy and many countries which claim to have a democratic form of government. The diversity of our world can be very confusing. In this two-day lesson, students will expand their understanding of democracy, and learn of criteria that scholars use to identify democracies. On the second day they will work in small groups to apply these criteria to different fictional countries.

## OBJECTIVES

At the end of the lesson, students will be able to:

1. Expand their definition of democracy by considering several new criteria.
2. Identify democratic practices in fictional and real countries.
3. Work with others in making decisions.

## TIME REQUIRED

two class periods

## MATERIALS

Handout A: Democratic Government
Handout B: Deciding About Democracy
Handout C: Deciding About Democracy Worksheet

## PROCEDURES

1. Give students an example of unlimited power by making arbitrary and unpleasant changes in the day's schedule:
   "I have decided that there will be no lunch period today."
   "Homework tonight will be a ten page paper on ________________ "
   "No students in my class can be in after-school sports."
   After they have had an opportunity to protest, explain that you have just given them an example of autocratic government, in which one person or group has unlimited power.
2. Put the word **democracy** on the chalkboard or overhead transparency. Ask students to think and brainstorm about what that word "democracy" means to them. Record their ideas on the board. Do not comment on or question their suggestions at this point.

   Ask the students if some of the things they have listed under DEMOCRACY go together in some way. Take suggestions for linking words together, and ask what each category has in common. (Example: freedom of speech, religion, press might be grouped and labelled "rights.")
3. Ask students to label the categories they have created. This reassessment will let you know what they think about democracy in particular and government in general.
4. Post their words, groups and labels on the bulletin board.
5. Using an overhead transparency or handouts, show them the list in Handout A. Explain to them that these are characteristics of a certain kind of government, a democracy, that have been identified by scholars. These are the characteristics of constitutional goverment, as opposed to autocratic government. Discuss each and compare this with the students' list.
6. Divide the class into groups of five. Pass out Handout B and the chart, Handout C. Assign the following roles:

discussion leader - asks questions about examples and the chart;
reader - reads aloud each example;
recorder - takes notes and fills in the chart;
reporter - shares the group's decision chart with the class and;
facilitator - keeps track of time for group work, asks for help from teacher if needed.

7. Introduce the chart and the group task.
After the groups have discussed the examples, choose a reporter from each group to share their decisions about the democratic characteristics of a country.
8. Debrief the small group activity.
In what ways does democracy in Alpha and Kappa differ?
In addition to democracy, what other forms of government can be found in the world?
Are there other characteristics of democracy that you want to add to our list? Possible additions might include:
- rights for all people;
- participation of all adults in voting;
- freedom to join private organizations not under government control; and
- government representing the desires of its citizens.

## TEACHER BACKGROUND

Many children associate democratic goverment with attributes such as majority rule and individual rights. Scholars have used a variety of criteria in their studies. G.B. Powell, in his book *Contemporary Democracies* (Cambridge, MA: Harvard University Press, 1982), includes five criteria:

- The government bases its legitimacy on representing the desires of the citizens.
- Leaders are chosen in free elections by at least two viable political parties.
- Most adults can participate in the political process.
- Citizens' votes are secret and not coerced
- Citizens, leaders and party officials enjoy basic freedoms of speech, press, assembly, religion and organization

In four different studies conducted between 1976 and 1984, 19 nations were consistently rated as democracies: Australia, Austria, Belgium, Canada, Denmark, Finland, France, West Germany, Ireland, Israel, Italy, Japan, the Netherlands, New Zealand, Norway, Sweden, Switzerland, the United Kingdom, and the United States. (This data is summerized in K. Janda, J.M. Berry, J. Goldman, *The Challenge of Democracy: Government in America* (Boston, MA: Houghton Mifflin, 1987)). All of these nations are industrialized, democratic societies. Third World countries are not represented.

A more recent study by T.D. Anderson ("Civil and political liberties in the world: a geographical analysis" in J. Norwine and A. Gonzalez, *The Third World* (Boston, MA: Unwin Hyman, 1988)) classifies the nations of the world on a six-point scale, with category I composed of countries where all elements of individual rights are specified by law and are extended to all inhabitants without restriction. Category II includes countries in which legal rights are *not* extended uniformly to some minorities or recent immigrants. Many of the largest Western nations fall into Category II because of the diverse populations and the role of dicrimination against racial or ethnic minorities. In this study, based on 1988 data, the following Third World countries are included in Catagories I and II: Barbados, Belize, Botswana, Columbia, Cyprus, Dominicana, the Dominican Republic, Grenada, Jamaica, Kiribati, Mauritius, Nauru, Paupua-New Guinea, St.Kitts--Nevis, St. Lucia, St. Vincent, the Solomon Islands, Trinidad-Tobago, Tuvalu, Uruguay, and Venezuela.

Anderson argues that not all democratic nations have an educated population and an advanced economy: "striking exceptions are places like Botswana, Papua-New Guinea, and the Solomon

Islands... This evidence suggests that the premise that mass access to civil and political freedoms is a feature only of Europeanized, middle-latitude countries does not accord with reality."

Given the changes in Eastern Europe and elsewhere, these studies must be continually updated. Teachers may wish to use countries from these lists as the basis for student research projects.

### EVALUATION

Bring in news stories which illustrate the actions and characteristics of actual governments in the news and look for attributes of democratic government. Find out more about each of these countries through individual projects or group work.

### CURRICULUM INTEGRATION

In English class, students might practice letter writing skills, writing to the Permanent Mission of their selected nation to the United Nations, UN Plaza, New York, NY 10017.

They might write to their member of Congress to ask about United States foreign policy to promote democracy abroad and what our government thinks it means to "promote democracy."

Teachers might tell students about the democratic classroom movement where students participate in decision making. Students might interview other teachers about the pros and cons of such a classroom as it relates to various student populations and academic subject areas. This study might engage the principal with questions about the possibilities of democratic schools.

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# HANDOUT A

## Democratic Government

A government is often called a democracy if the following characteristics are present:

1. Government leaders gain power by legal, peaceful means. They can be removed from office by the people or their elected representatives.

2. Individuals have basic rights such as freedom of speech, freedom of the press, freedom of assembly, and freedom of religion.

3. Individuals and groups are protected from unfair government actions that may take away their lives, property or freedom.

4. Regular elections with two or more political parties, secret ballots, and majority rule are part of the political process.

5. Individuals have the right to be represented when government passes laws or levies taxes. A legislature of elected representatives meets to make to laws.

6. The media - newspapers, magazines and television - freely report news from around the world, and present favorable and unfavorable views of government actions.

7. The country's courts make rulings for and against the government, and help protect the citizens' rights. People are equal before the law.

8. A national constitution, written or unwritten, limits the power of government. It defines what the government may do and how it will be organized.

## HANDOUT B

### Deciding About Democracy

DIRECTIONS
Read each of these examples. Using Handout C, decide which characteristics of democratic government are present or missing. Decide if you consider each country an example of a democracy.

COUNTRY A
The people of Alpha have a prime minister rather than a president as their national leader. The people vote for their representatives in the legislature, but they do not vote for prime minister. The prime minister is chosen by the elected representatives in the legislature. If they lose confidence in their leader, the majority in the legislature choose a new prime minister. Alpha has an unwritten constitution based on many important documents in their history and longstanding customs. Individuals and groups are free to criticize the government. They are free to worship as they please, move freely within the country, change jobs, and travel.

COUNTRY B
Beta has a written constitution that is 25 years old. It states that citizens have the right to freedom of speech and freedom of religion. Even though these rights are in the constitution, the people of Beta are not allowed to criticize their government. People who disagree with the government are arrested. They disappear for many years, sometimes forever. There are elections in Beta, but there is only one political party. The people of Beta are afraid of their government. They do not feel safe.

COUNTRY G
Gamma is country with a president and legislature elected by the people. The president appoints the governors of Gamma's sixty states. Military leaders (who are not elected) have a great deal of power in Gamma. They decide which candidates can run in an election. They have shut down newspapers that criticize the government. In the old days, a military dictator ruled Gamma. Five years ago, the military gave power to a president and legislature. If the military leaders do not like the government's actions, they can try to take over the government again.

COUNTRY I
The country of Iota has some citizens who are very wealthy. They have the right to vote for president and their representatives. They hold important positions in business, government, and education. They can travel freely, choose their place of worship, their jobs, and school for their children. Most of their children go to college in other countries. Most people in Iota are poor and have little education. They are

not allowed to vote and must live in areas assigned to them by the government. There is no constitution that protects the rights of all of the people of Iota.

Country K

Kappa is a country where there are many elections. In every part of the nation, leaders, legislators, and judges are elected to office. If the people of Kappa do not like what their government is doing, they can wait for the next election and vote for a new political party or a new candidate. Sometimes the people of Kappa do not wait for the next election. They sign a petition to recall the government official and remove him from office. These procedures are written in their constitution. People often dicuss and debate government actions. Sometimes citizens take a government official to court and win their case. Politics is an important part of the daily lives of the people of Kappa.

## HANDOUT C

### Deciding About Democracy Worksheet

Characteristics  Country

| | A - Alpha | B - Beta | G- Gamma | I - Iota | K - Kappa |
|---|---|---|---|---|---|
| Peaceful change of leaders | | | | | |
| Basic political freedoms | | | | | |
| Protection of life, liberty, property | | | | | |
| Regular elections, majority rule | | | | | |
| Elected representatives | | | | | |
| Free and open media | | | | | |
| Courts - equality before the law, rule of law | | | | | |
| Constitution - limits government | | | | | |
| Is this country a democracy? Yes/No | | | | | |
| Why?<br>Why Not? | | | | | |

# *A Writing Assignment on Pre-Sentencing Investigation Reports*

by Albert Lindquist, Ballou High School, Washington, D.C.

## INTRODUCTION

The Constitution provides the right of a jury trial to those accused of crimes. The Constitutional process also accords protection to the defendant if he/she is found guilty. Sentencing is seldom arbitrary, but is used to provide punishment that will not only meet the nature of the offense, but also fit the person being sentenced. This lesson introduces one of the functions of the probation department, which is to give guidance to the judge in sentencing a defendant. The design of this lesson is a writing exercise that will familiarize the students with the numerous actions taken into consideration prior to a judge delivering a sentence. This lesson should give students an insight into the sentencing process as well as increase their writing and analytical skills.

## OBJECTIVES

As a result of this lesson, students will:

1. Write a pre-sentence report which contains a description of the offense and the circumstances surrounding it and recommend a sentence to the judge for the defendant in question.

## TIME REQUIRED

three class periods

## MATERIALS

Handout A: The Guide for Pre-sentence Investigation Report
Handout B: The *State v. Harria* Fact Sheet
Handout C: Pre-sentence Report information about the defendant
Handout D: Risk Factor Table

## PROCEDURE

1. Distribute Handouts A and B. Tell the students that probation officials use this list during interviews with defendants to gather a quick summary of pertinent information. The class should use the fact sheet just as a probation official would and then use the information in their report.

2. At this point students should be told that because the defendant is not going to be interviewed, they will have to create information about him that is not given in the lesson. (Students might recruit a law enforcement officer or probation officer to role play the "defendant".) Explain to them that they have to be creative in filling the gaps of missing information. This can best be explained as the creative part of their writing exercise.

3. Distribute Handout C. This can be completed from the information provided in the previously discussed Handout B. Students should know that it is a numerical gauge used by probation officials to help in determining the sentence to be recommended. A high score a favorable rating; thus, a less severe sentence might be recommended. A low score seemingly implies that the convicted defendant should be receiving a more severe sentence. This is just a handy guide for students to use in accessing what they think the sentence should be.

4. Distribute Handout D. Remind students that a report should be written with a formal recommendation to the court. Two pages would be the minimum length of such a report.

5. After the reports have been written and each student has recommended a sentence to the court, a debriefing in class can take place. Selected students can read their reports and justify their sentence recommendation. The instructor might ask the class why different sentences were suggested by the students, which decision was most just and which decision was most unjust. Ask the students how they would compare the decisions made by other students acting as officials of the probation department.

6. Have the class break into groups of two students each. One of the students will play the role of a probation department official and the other will be the defendant. Explain to the students that they will recreate an interview by a probation department official of the defendant, Samuel Harris. The defendant will have to give creative answers to some of the questions being asked, as they have only limited information about him. Students are to be reminded that they are to recommend a sentence to the court based upon the information they already have and what they will elicit from the defendant. After the interview has taken place during one class period, a report should be written.

7. After reports have been written, selected students should relate to the class what they recommended. If possible, invite a lawyer or a local judge to hear the actual reports and allow him/her to sentence the "defendant".

8. Explore with the students the protections guaranteed to citizens in the Constitution concerning the accused and trials. (Specifically, Amendments 5, 6, 7, and 8 concern the accused and his/her rights.) Question the class about why there is a presentence report filed before a judge imposes a sentence. Is there a constitutional right to this report? Question the class about rights that are based upon constitutional protections even though they might not be specifically mentioned. Ask students how they felt about the role they played. Did those who played probation officials feel a unique sense of responsibility? How did those who played the defendant feel? What was the interaction like between the two individuals while the interview took place?

## EVALUATION

Students should be given a written examination. Each student is to work individually on his/her exam. The following questions can be the basis of this test:

1. What is the purpose of the pre-sentence investigation report?
2. What role do most state probation departments play in the pre-sentence investigation report? Why do you think they play this role?
3. Why do judges feel it is necessary to have input from probation departments through pre-sentence reports?
4. Should the victim of a crime have input into this pre-sentence report? Explain your answer.
5. Should defendants convicted of the same crimes receive the same sentence, or should each person be judged individually? Explain your answer.

## CURRICULUM INTEGRATION

Link to English is inherent in this lesson -- writing reports using an established outline. Clear exposition is used herein to communicate a judgment to others who will act upon that judgment.

*This lesson distributed through the Warren E. Burger National Repository for Educational Materials on Citizenship and the Constitution Center for Research and Development in Law-Related Education. 1-800-437-1054. Lesson Number: 70638A/89765.*

# HANDOUT A

## Guide for the Pre-Sentence Investigation Report

### 1. CURRENT OFFENSE

A. Official Version of What Actually Occurred
B. Defendant's Version of What Occurred

### 2. PREVIOUS ARREST RECORD

From your official record of the defendant and from your interview, summarize prior arrests and dispositions. Remember that sometimes all the information might not be included on that official record. Be sure to ask the defendant if any pertinent information has been left out.

### 3. FAMILY HISTORY

Learn as much as you can about the defendant's early years. Did he/she came from a divorced home, what is his/her attitude toward family members, how many brothers and sisters does he/she have, and what is the major influence on his/her life. Try to learn about any early incidence of behavior.

### 4. MARITAL HISTORY

Is the defendant married? If so, determine the current state of that marriage. Are there children from the marriage? Is child support being paid? What is the attitude of the defendant toward family responsibilities?

### 5. EDUCATION

What was the highest grade completed in school? Ask about social behavior as a student. Try to get achievement test results. Ask defendant if he/she remembers how well he tested if test results cannot be obtained.

### 6. EMPLOYMENT

Determine defendant's history of employment from present to first job. Determine the reason(s) for leaving employment. Are there patterns and trends to the work experience? What can you determine about the work skills, training, and attitude of the defendant?

## 7. MILITARY SERVICE

List the dates of military service along with the branch of service. If the defendant was less than honorably discharged, ask the reasons for dismissal. Ask if veterans' benefits are being received and what physical disabilities exist.

## 8. PHYSICAL HEALTH

Ask defendant about early childhood diseases, disabilities, or injuries. Be sure to inquire about any physical abnormalities the defendant might have. Remember that the sentence received by the defendant could be influenced by health considerations. Evidence of drug abuse or alcohol abuse should be noted.

## 9. EVALUATION

Summarize the most significant factors from the investigation. Any positive elements should be noted at this time. Include any factors that you feel contributed to the criminal behavior in the report.

## 10. RECOMMENDATION

After reviewing all evidence, determine what type of sentence would be appropriate. If probation is recommended, be aware that supervision will be required. Supervision could include work, third party release, job training, education or other options. If jail is necessary, make a notation of special needs and problems of the defendant that should be considered.

## HANDOUT B

### *State v. Harria* Fact Sheet

DEFENDANT: Harria, Samuel

ADDRESS: 4715 Euclid Street

PERSONAL INFORMATION:
  AGE: 27
  SEX: Male
  RACE: White
  MARITAL STATUS: Divorced
  DEPENDENTS: 2 Children
  EDUCATION: High School Graduate
  OCCUPATION: Truck Driver
  EMPLOYER: Morris Trucking
  SALARY: $900.00 Monthly

PRIOR RECORD: Age 15, Burglary, 3 years state industrial school. Age 19, Grand Theft (auto), 8 months county jail. Age 21, Forgery (checks), dismissed. Age 24, Robbery, 3 years state penitentiary.

POLICE REPORT: On information from an informant, Harria was arrested by two detectives at the Mayfield Bowling Alley. Force was needed to subdue the defendant because he was unwilling to be handcuffed. After reading him his rights, the officers took him to his residence. In his home, the following items were found: three televisions, one compact disc stereo, and one handgun. The above items have been positively identified as goods from three separate reports of breaking and entering.

BAIL: Defendant could not make the $20,000 bail and awaited trial in the county jail.

CHARGES: Burglary, Theft, Receiving Stolen Property, Possession of a Dangerous Weapon, Disorderly Conduct.

## HANDOUT C

### Pre-Sentencing Report Fact Sheet

Name
Address
Age
Place of Birth
Education
Marital Status
Dependents
Place of Employment
Offense(s)
Custody Status
Current Charges Pending
Disposition

## HANDOUT D

### Risk Factor Table

| Low | Moderate | High | Very High |
|---|---|---|---|
| 10-8 | 7-6 | 5-4 | 3-0 |

Offender's Name: ______________________________

| | | |
|---|---|---|
| 1. | No prior conviction | 2 points |
| | One prior conviction | 1 point |
| | Two or more convictions | 0 points |
| 2. | No prior incarcerations | 2 points |
| | One prior incarceration | 1 point |
| | Two or more prior incarcerations | 0 points |
| 3. | Age at first commitment: | 18 or over 1 point, otherwise 0 points. |

4. Offense did not involve personal injury 1 point, otherwise 0 points.
5. Offense did not involve use of weapon 1 point, otherwise 0 points.
6. Verified employment or full time school 1 point, otherwise 0 points.
7. Offender not previously convicted of same offense 1 point, otherwise 0 points.
8. Never had probation or parole revoked or been jailed for new offense while on probation or parole 1 point, otherwise 0 points.

Total Points: ________
Risk Factor Rating: ________

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# *Youth Violence: Its Victims and Impact*

by Kip Lowe, Bureau Chief, California Youth Authority Training Services Division

## INTRODUCTION

This lesson engages students in the examination of youth violence in American society, its extent, intensity, and impact on American life. A model of analysis is provided for the examination of victimization -- at the personal level.

## OBJECTIVES

Students successfully completing this lesson will:

1. Describe how youth are involved in violent crime both as victims and victimizers.
2. Define **victim of crime**.
3. List the phases of victimization.
4. Describe how victims are affected by crime.
5. List ways to help crime victims.

## TIME REQUIRED

two to three class periods

## MATERIALS

Student Handouts A-C

Optional:

a. Florida's crime index statistics (from its Bureau of Justice statistics)

b. Resource Person: Among other possibilities, a representative from your local victim-assistance (district attorney's) office. See 2. and 6. below.

## PROCEDURES

1. Distribute Handout A and have students read "Teen Violence" and "Teen Victimizer." Facilitate a class discussion focusing on the statistics. Your goal is to educate students in the reality that teenagers and young adults are more likely than other age groups to be both victimizers and victims. Ask students to think of some reasons for these statistics. As an optional activity, obtain Florida's criminal index statistics. Provide students with information on your local county/community crime patterns.
2. Have students read the next section "Teen Victims". Facilitate a class discussion on who is a crime victim and the phases of victimization. This is an ideal opportunity to bring in a community resource person to assist in the class discussion. A representative from your local victim-assistance (district attorney's) office can be invaluable in helping students learn about victims, the impact of crime on them and the criminal justice system's response to them. Community resource people can also identify resources for crime victims.
3. Distribute Student Handout B "Crimes and Their Impact". Divide the class into groups, and assign one or more crime categories to each group (for example, burglary or domestic violence). Instruct the groups to read and discuss the crimes in the categories assigned and their impact. Have the groups prepare a brief presentation to the entire class on the crimes. A primary goal of this section is to assist students in developing an awareness of the domino effect of crime: how not only the primary victim is affected, but also the victim's family, friends, and the community.
4. Distribute Student Handout C and have students read "Victims in the Media". Students must watch a news program or read a newspaper to answer the questions. Facilitate a class discussion about students' responses to the questions.

5. Have students read "Four Major Impact Areas". Students are to identify the impact of crime in four different scenarios. The list at the top will assist students in this task. Handout B is also an excellent source.

   This exercise helps to personalize crime by placing the student in the scenario in which he or she is either a primary victim or a friend of a victim. Again, it is important for the class to identify the domino effect of each crime and to discuss how the crime affects the victim and the victim's family, friends, and the community. (Note: this exercise often arouses strong emotions in students who have actually experienced a crime. Teachers should be sensitive to these students' needs for referral to counseling services.)
6. To educate students about local community resources:
   a. Have a community resource person provide information on victim services.
   b. Have students research the available services alone or in work groups, looking for rape crisis hotline, domestic violence coalitions, victim assistance programs, law enforcement resources, and groups such as Mothers Against Drunk Drivers and Parents of Murdered Children. Conclude this strategy by asking students to identify how they can help others who have been victimized by crime.

## EVALUATION

The teacher has ample opportunity to see student development during the activities in this lesson. However, it is suggested that students write up fictionalized case studies (such as in Handout C) for further analysis and write on the theme of societal impact and victimization.

## CURRICULUM INTEGRATION

The linkage to English teaching is obvious. In addition, selected literature involving victimization (and its complexities) might be assigned.

Mathematics teachers might use FBI data or data from the Florida Department of Law Enforcement to examine the extent and intensity of victimization in our nation and state.

Computer teachers might help students obtain Florida's crime index statistics via the Internet. Students could then do 6a and 6b (above) via the Internet.

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## HANDOUT A

### Violence: Its Victims and Impact

### TEEN VIOLENCE

America's teenagers are exposed to and participate in violence at an ever-increasing rate. We hear high school students say, "I've seen people assaulted and shot, and I've even seen a dead body. It's no big thing." Researchers Kathleen Maguire and Ann Pastors report that 23 percent of the 1993 high school class said that they have been threaten with injury by another person at school during the previous twelve months. Almost 7 percent reported that they had actually been injured by a weapon during that period. As have many adults, American teens have become calloused to violence; it has become an accepted part of day-to-day school life.

Teens claim fear of retaliation and a general feeling of powerlessness when it comes to intervening in school or community violence. They often decide that it's better to ignore the violence than risk emotional or physical harm. It is imperative to ensure the safety of youth. But to successfully involve teens in violence prevention, it is also important to understand and focus on how it becomes OK for teens to participate in and condone violence.

Teens who have experienced violence firsthand at home, in their neighborhoods, or at school may be especially vulnerable to violence. Vulnerable teens may be more likely to react to violence with violence - the victim becomes the victimizer, forming the circle of youth violence.

Teens may mask their own pain, or through exposure to repeated violence become insensitive and/or unconcerned about their peer's pain and suffering. As a result, the likelihood of teen participation in, or at the very least unconscious support of, personal violence increases. Students can be aggressive, exploitative, or destructive to another person or another person's property because they are insensitive to the other's suffering or feelings. Often this insensitivity derives from the student's insensitivity to his/her own feelings.

According to Alexander Lowen, empathy - the ability to sense other people's moods or feelings - is a function of resonance. We can feel another person's sadness because it makes us sad; we can share another's joy because it evokes good feelings in us. Teens must be sensitized to the impact of violence on its victims. Only by personalizing crime and putting faces on victims can we hope to uncover and develop feelings of empathy in youth and thereby reduce the epidemic of youth violence.

## TEEN VICTIMIZERS

Teenagers and young adults are becoming more and more involved in violence, both as victims and victimizers. Between 1983-92, arrests of youth under 18 years of age for violent crimes increased a shocking 57.1 percent. In 1992, an estimated 83,794 males under 18 were arrested for violent crime, an increase of 4.1 percent over 1991. Also alarming was the increase of female violence. During 1991-92, arrests for violent crime by females under 19 increased by 11.4 percent (U.S. Department of Justice 1993a).

The victimization rates for personal crimes (such as rape, robbery, assault, and personal theft) have declined for most age groups in America. Yet the violent crime rate for young people has increased, resulting in a corresponding increase in the number of victims, most of whom are the same age as their offenders. The National Crime Victimization Survey, 1973-92, found that teenagers and young adults consistently have the highest victimization rate for violent crime, approximately three times that of the general adult population and over ten times that of the elderly (U.S. Department of Justice 1993b).

Recently, violence resulting from the use of firearms, particularly handguns, has increased. Gunshot injuries (homicides, suicides, and accidents) are a major cause of death for children and adolescents in the United States, accounting for 12 percent of all premature deaths. Additionally, for every young person who dies, an estimated five more are seriously injured, according to the Center to Prevent Handgun Violence.

The overall increase in youth violence has had a major impact on our nation's schools. A 1993 study by Lynn Glassman for the National School Boards Association found that of 720 school districts, 82 percent reported an increase in violence in the past five years. U.S. Secretary of Education Richard W. Riley has noted that each year about three million thefts and violent crimes occur on or near school campuses. That is about 16,000 incidents per school day.

## TEEN VICTIMS

A crime victim is a person who is hurt and experiences a loss or injury (psychological, physical, or financial) as a result of someone else's act that constitutes a crime under federal, state, or local law. Generally, victimizing behavior is the use of physical, emotional, or financial force to hurt another or to deprive another of property or rights. Specifically, violent crime refers to the criminal behavior that may result in death or bodily injury, including behavior that involves the threat of death or injury. Acts such as homicide, robbery, sexual assault, and dating violence are violent crimes often committed on or near school property.

All victims of crime suffer and generally go through three stages, or phases, of victimization as identified by the Ohio Department of Youth Services. While the progression through the phases is common among victims, the intensity and length of each phase may vary.

Phases of Victimization

| | |
|---|---|
| Phase 1 | This Can't Be Happening to Me! |
| Phase 2 | Why Me? |
| Phase 3 | Recovery |

The first phase, This Can't Be Happening to Me!, usually occurs during and/or shortly after a crime has been committed. Common features of this phase include (a) shock; (b) a feeling of time slowing down; and (c) a loss of all ability to function normally. This phase can happen in a few minutes or a few hours.

The second phase, Why Me?, is when the victims try to make sense of things and regain control over their lives. Common features include (a) feelings of guilt that they are to blame; (b) a replaying of the victimization in an attempt to cope and rebuild self-image; (c) wide emotional swings, often accompanied by depression, daydreams, and nightmares; and (d) a coming to grips with the fact that bad things happen to good people. This phase may last days, months, years, or a lifetime.

The third phase, Recovery, is the phase when victims work to put their lives back together - when they work to become survivors. Common features of this phase include (a) working to rebuild; (b) learning to trust self and others; (c) learning to overcome chronic anxiety, concentration problems, guilt, sleep disturbances, and isolation, for example; and (d) learning to be around other people. A victim's life is forever changed, and the process of recovery may indeed last a lifetime.

Learning about the impact of crime on victims will help teens be aware of the never-ending trauma that teenage victims of crime endure. Every time a teen is victimized by crime, he/she has been violated and is suffering.

## HANDOUT B

### Crimes and Their Impact

### BURGLARY

| | |
|---|---|
| Physical: | ulcers, fatigue, stomach pains/aches, tremors/shaking |
| Emotional: | fear, anger, helplessness, insecurity, loss of privacy, guilt, confusion, depression, vulnerability, and powerlessness |
| Psychological: | paranoia about being alone, inability to sleep, depression, nightmares |
| Financial: | out-of-pocket expenses, insurance deductible, loss of wages, court costs, law enforcement costs, loss of irreplaceable items, cost of security measures |

### THEFT

| | |
|---|---|
| Physical: | ulcers, fatigue, stomach pains/aches, tremors/shaking |
| Emotional: | fear, anger, helplessness, insecurity, guilt, confusion, depression, vulnerability, and powerlessness |
| Psychological: | inability to sleep, depression, nightmares |
| Financial: | out-of-pocket expenses, insurance deductible, loss of wages, law enforcement costs, court costs, loss of irreplaceable items |

### ROBBERY

| | |
|---|---|
| Physical: | loss of life, trauma to body, ulcers, fatigue, stomach pains/aches, tremors/shaking |
| Emotional: | fear, anger, shock, helplessness, insecurity, guilt, confusion, depression, vulnerability, and powerlessness |
| Psychological: | paranoia, isolation, intimidation, crying, outbursts, inability to sleep, nightmares |
| Financial: | out-of-pocket expenses, insurance deductible, medical expenses, loss of wages, court costs, law enforcement costs |

### HOMICIDE

| | |
|---|---|
| Physical: | loss of life, trauma to body; surviving family members and close friends are victimized and |

experience many of the emotional, psychological, and financial impacts.

Physical: ulcers, fatigue, stomach pains/aches, tremors/shaking, sympathy pains - experience pain similar to the victim's

Emotional: fear, anger, helplessness, insecurity, guilt, confusion, depression, vulnerability, and powerlessness, extreme sense of sorrow

Psychological: unreality, isolation, intimidation, crying, outbursts, inability to sleep, nightmares

Financial: loss of wages, inability to work, funeral costs, care costs for children left behind, law enforcement costs

### DOMESTIC VIOLENCE/DATING VIOLENCE

Physical: trauma to body, ulcers, fatigue, stomach pains/aches, tremors/shaking

Emotional: fear, anger, helplessness, embarrassment, humiliation, insecurity, guilt, confusion, depression, vulnerability, and powerlessness, shame

Psychological: paranoia, fear of intimacy, isolation, intimidation, crying, outbursts, inability to sleep, nightmares

Financial: medical expenses, loss of wages, inability to work, court costs, law enforcement costs, relocation cost

### DRUNK DRIVING

Physical: loss of life, trauma to body, ulcers, fatigue, stomach pains/aches, tremors/shaking

Emotional: fear, anger, shock, helplessness, insecurity, guilt, confusion, depression, vulnerability, and powerlessness

Psychological: paranoia, isolation, intimidation, crying, outbursts, inability to sleep, nightmares

Financial: out-of-pocket expenses, medical expenses, loss of wages, court costs, law enforcement costs

### SEXUAL ASSAULT

Physical: loss of life, trauma to body, ulcers, fatigue, stomach pains/aches, tremors/shaking, loss of sexual functioning, anxiety

Emotional: fear, anger, helplessness, embarrassment, insecurity, guilt, confusion, depression, vulnerability, and powerlessness, shame

| | |
|---|---|
| Psychological: | paranoia of others/of being alone, fear of intimacy, isolation, intimidation, crying, outbursts, inability to sleep, nightmares |
| Financial: | out-of-pocket expenses, medical expenses, loss of wages, law enforcement costs, cost of security measures |

### NEGLECT

| | |
|---|---|
| Physical: | trauma to body, malnutrition, ulcers, fatigue, stomach pains/aches, tremors/shaking |
| Emotional: | fear, anger, helplessness, isolation, insecurity, sadness, confusion, depression, suicidal feelings, shame, powerlessness |
| Psychological: | crying, outbursts, inability to sleep |
| Financial: | medical costs, foster care costs, court costs |

### DRUG SALES

Direct impact on the user and the user's family, friends, community; physical effects on user and user's unborn child if the user is pregnant; emotional/psychological impact on society, such as fear and intimidation; financial impact through medical costs, law enforcement costs, court costs

## HANDOUT C

### Victims in the Media

Instructions: Watch the news on TV or read a newspaper. Choose a crime victim to write about on a separate sheet. Answer the following questions:

1. What is a crime victim?
2. Write a description of the crime and the person who was the victim of that crime.
3. What was the impact of the crime on the victim? Remember to think about the impact not only on the victim but on the victim's family, friends, and community as well.

### FOUR MAJOR IMPACT AREAS

Instructions: For each of the following situations, make at least three selections from the impact lists. Try to select impacts that you feel the victim and/or survivors would experience, and explain each of your selections.

### IMPACT LISTS

PHYSICAL

- Trauma to body
- Bruises
- Broken Bones
- Cuts
- Burns
- Scars
- Black eyes
- Tremors/shaking
- Fatigue
- Ulcer
- Stomach pains/aches
- Loss of life

EMOTIONAL

- Fear
- Anger
- Hopelessness
- Isolation
- Insecurity
- Sadness
- Guilt
- Shame
- Embarrassment
- Confusion
- Depression
- Suicidal feelings
- Vulnerability
- Powerlessness

PSYCHOLOGICAL

- Paranoia of others or of being alone
- Social isolation
- Intimidation by others
- Crying outbursts
- Inability to sleep
- Inability to feel clean and need to bathe or wash repeatedly
- Depression
- Wanting to die
- Nightmares
- Difficulty in having a normal sexual relationship

FINANCIAL

- Personal out-of-pocket expenses
- Loss of wages/ inability to work/ loss of job
- Insurance deductible
- Law enforcement costs
- Prosecution/trial costs
- Costs of jails, camps, halls, institutions, prisons, and special community programs
- Medical costs

SITUATIONS:

1. You return to your school locker between classes. It is open, and all its contents are missing. Items taken include your purse/wallet, three school books, a homework folder, a photo album, and a watch given to you by your deceased grandmother.

2. A friend approaches you during lunch and informs you that your girlfriend/boyfriend was severely beaten by her or his father.

3. You learn that one of your classmates was dragged into a closet and sexually assaulted by three male students.

4. While you are eating lunch in the cafeteria with two friends, a fight breaks out between two students across the room. Shots ring out and you dive to the floor. While lying on the floor, you look over to your friend lying next to you. He has blood flowing from a bullet wound in his forehead, and he is not breathing.

# Part V

◆

# Ancillary Components

# Ancillary Components

The ancillary components in this section are presented to assist teachers and school administrators as they design and develop law education programs following either Law Studies or Criminal Justice Assisting tracks, or both. These components are really idea sheets to be used to suggest ways to begin a law-oriented student club, a student court in school, or a community service program. Teachers might use them to explain an idea to school partners when questions arise about alternative assessment procedures or Law Studies internships, to cite two examples.

A complete list of the ancillary components provided herein follows below. If you have recommendations for additional components, please contact FLREA with those suggestions.

The Ancillaries:

- Block Scheduling
- Clubs
- Community Partnerships
- Community Service Programs
- ESOL Instructional Strategies
- Family Involvement
- Feature Films
- Field Experiences
- Internships
- Juvenile Justice Flowchart
- Literature
- Mediation Programs
- Mentorships
- Outside Resource Persons
- Performance Assessment, Focus on Research -
- Professions
- Student Courts
- Technology
- Teen Courts

# Block Scheduling
## for Law-Related Education

Block Scheduling is an alternative, flexible method of scheduling courses, designed to more directly meet the needs of the individual student by reducing class size, increasing the number of subjects offered annually, and teaching subjects in a more in-depth, active-learning manner. Proponents of block scheduling claim that these new schedules infuse excitement into the school climate, motivating students to be more committed to successful participation in their classes. Many teachers believe that this correlates with a reduction in discipline problems and absenteeism among their students, as their students' attention is held more easily, and students understand that missing one class can leave them several hours behind students' classmates. Students like block scheduling because it is designed with their individual needs in mind; they feel more "ownership" of their schedule and are more committed to making it work.

There are several versions of block scheduling; schools choose a program based on their students' particular needs. The most prevalent forms of block scheduling include:

*4 X 4 Scheduling*
- two semesters of four classes (eight classes total)
- each class lasts 90 minutes

*A/B Scheduling*
- classes 1 - 4 taken on "A" days, classes 5 - 8 taken on "B" days
- students alternate days: A, B, A, B, etc.
- courses remain same all year

*Team Teaching*
- blocks of time allotted to two or more teachers together
- teachers accommodate each others' time needs, and work closely to provide curriculum infusion within joint lessons

*Macrocourse/Microcourse Scheduling*
- some courses use larger blocks of time than others
- macrocourses completed in several weeks or months; microcourses last an entire year

Block scheduling allows for curriculum modification by offering expanded course offerings, internship and other experiential learning opportunities, college level courses, and numerous electives. Law-related education, with both an academic and vocational focus, can be easily infused in this way. The student can proceed through a progressive law-focused curriculum, easily delivered within the frameworks of History, English (Literature), Science, Math, law-related electives, and internship courses. Student schedules can emphasize law-related education and curriculum integration while fitting within the traditional curriculum. In schedules that utilize team teaching, teachers can integrate law-related education among several courses, and use the large blocks of time to best deliver the curriculum. For example, a mock trial exercise taking three hours could be completed in one day rather than three. The trial itself can incorporate math and science (forensics), or literature and history (a trial based on a novel or historical event).

Twelfth graders' block schedules usually allow for more creativity and elective courses. Students pursuing law related education can pursue courses such as Criminal Justice Assisting II and III, and the Court Procedures Intern Program.

# Clubs

## for Law-Related Education

A Law or Criminal Justice-focused club can be a great addition to an existing class or program at a school. As an extracurricular option, a club can provide an opportunity for the students who want to progress farther in these fields, either through law-related activities and academic competitions, or by assuming a leadership role among their peers.

Teachers may find it helpful to recruit attorneys, criminal justice personnel, and family members of students as volunteers to assist in coordinating the club's activities, or provide sponsorship for after-school events.

The following is the abbreviated By-Laws of the Criminal Justice Student Association at Columbia High School, led by Mr. Roger Lizotte. This is just one example of how a club can be structured, and offers insight into details that must be considered when starting a new club or association. Mr. Lizotte's inclusions in the By-Laws can be applied to most Law or Criminal Justice clubs.

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### Columbia High School Criminal Justice Student Association

### By-Laws

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I. Club Name: As Agreed upon by the members. Criminal Justice Student Association (CJSA).

II. Club Shirt: As approved by all active members.
- A. Uniform shirt description:
  - Shirt: Color to be decided by all active members with logo design approved by all active members. Cost for the shirt and logo will be at individual expense.
- B. Wearing of the club shirt is optional.

III. Membership:
- A. Requirement:
  - (1) Does not have to be actively enrolled in a criminal justice class.
  - (2) Must notify club officer or club advisor within two days prior to or after absence from club meeting.
- B. Alumni:
  - (1) Consists of past members of the Criminal Justice Student Association and/or members of honorary induction into the club.
  - (2) No alumni may hold office or vote on any matter involving the club.

IV. Dues:
- A. Dues are agreed upon by the advisor at $_______ per school year.
  - (1) Those entering in at second semester shall pay the full annual fee.
  - (2) These funds are to be used in a manner beneficial to the club (i.e., stationery, supplies, refreshments, and club activities.)

(3) All dues are to be paid on or before October 15 of that year, or the perspective members that have not paid will be eliminated from the club.

V. Election of Officers:

A. Candidates will submit an application to the advisor two weeks prior to the election date. The applications are reviewed and either approved or disapproved by the Officers and the Executive Committee.

(1) Officers serve as follows:

| | | |
|---|---|---|
| a. | President | Presides over meetings, organizes all events. |
| b. | Vice President | Performs duties of the president if he/she is absent, and will assist the president in day to day duties. |
| c. | Secretary | Keeps accurate records and minutes of all club activities. |
| d. | Treasurer | Collects all dues, keeps records of all money. |
| e. | Report/Historian | Records events, deals with media and school, and photographs events. |
| f. | Sergeant-At-Arms | Keeps order in all meetings and helps maintain discipline. |

B. Class Representatives:
(1) There shall be two representatives as voted upon by all active members of the representative's respective class.

C. Executive Committee:
(1) Comprised of the current CJSA Officers and all current class representatives.

D. Voting for Officers:
(1) All candidates will submit applications to the advisor.
(2) Advisor will approve the application after validating eligibility.
(3) All candidates will be given an opportunity to speak on their own behalf prior to the elections.
(4) Voting will take place within two school days after speeches.
(5) Voting will be open to all active club members, except graduating seniors.
(6) Votes will be counted and certified by the club advisor and two of the elected officers.
(7) If three or more persons run for the same office, the winner must receive 51% of the vote. If no candidate receives 51% of the vote, a runoff will be held within two days between the two persons receiving the most votes.
(8) the vote count will be made available to any person interested. A request for a re-count must be made within one day after the election, in writing, by the candidate.
(9) The election will be held in the last month of the school year for all officers.

VI. Removal of an Officer/Member:

A. An Officer shall be removed for:
(1) Missing three meetings (to include both officers' and regular meetings without valid excuse).
(2) Misconduct that is demeaning to the club and/or its members.
  a. This will be reviewed by the Executive Committee and Officers (51% - Secret Ballot)
(3) Any officer that wishes to leave the club should put in writing to the Executive Committee the request, stating the reason and date for leaving. (If the reason is deemed personal, a request may be made to the advisor and not revealed to

the members).

B. Members and Officers will be removed for:
  (1) Criminal Arrest.
  (2) Disciplinary reasons.
  (Requires a meeting in front of the Executive Committee to determine reasoning, and if their name/names should be brought before the club.
  (3) Failure to pay dues within allotted time frame.
  (4) Willful destruction of club property.
    a. The case will be reviewed by the Executive Committee and the Advisor. (51% - Secret Ballot)

VII. Expenditures:
  A. All expenditures must be approved by the Executive Committee, the CJSA Officers, and the Advisor.

VIII. Fund Raising Activities:
  A. Activities are to be determined by the club members, the Officers and the Advisor, pending final approval of the school system.

IX. Club Meetings:
  A. Held once a month as designated by the school. Officers are to be selected by the Executive Committee, the CJSA Officers, and the advisor.

# Community Partnerships
## for Law-Related Education

A community partnership is a mutually beneficial arrangement between a school and a local business, government agency or non-governmental organization. The partnership can be arranged with an entire school or a smaller group of students within the school (e.g., a class, program, club, team sport, newspaper, or student government). The goal of the partnership is for the community partner to provide the students with the knowledge, resources and expertise needed to achieve a particular goal. Many law-related education programs have been enhanced through partnerships within the legal community that provide contributions both financially and in terms of collaborations on a variety of projects. Some examples of successful partnerships in law-related education include:

- law firms
- legal fraternities
- sheriffs' departments
- city governments
- county governments
- Florida Association of School Resource Officers
- other schools
- universities, colleges, community colleges
- newspapers
- TV and radio stations
- printing companies
- restaurants and retail stores
- Florida Department of Education
- Florida Department of Education's Safe and Drug-Free Schools Program
- Florida Department of Corrections
- Florida Department of Juvenile Justice
- nonprofit associations

With any community partnership, teachers will need to identify a contact person within the organization to outline goals and activities, personnel involved in the partnership, a mutually acceptable calendar of events, and responsibilities of teacher and community contact to make the partnership a success. Some of these responsibilities include arranging activities (including transportation and parental permission), preparing promotional materials (information packets, news releases, calendar of events), and maintaining communication among everyone involved.

The benefits of community partnerships far outweigh the sacrifice of the time and effort necessary to start one. Students feel a sense of importance as their efforts are being recognized by successful, committed adults; students' goals are more easily achieved when the necessary support is provided. Adult partners are able to feel a direct impact on the student they assist, while through some projects identifying future talent for their companies and organizations. The main goal, however, is the charitable giving of needed help to the students and the school. Effective partnerships demonstrate the incredible possibilities when people of different ages, experience and talent work together for a common goal; the result is a community or at least a portion of a community that feels a little more closely knit together.

# Community Service Programs

for Law-Related Education

Effective service programs for law-related education give students an opportunity to feel that they can make a difference by providing a valuable contribution of their time and talent in responding to an identified community need. Students who volunteer will often work alongside persons from different cultural and socioeconomic backgrounds than their own, learning about different perspectives and ways of life even within the smallest of communities. As volunteers they will develop important human relations, communication and practical skills which they can use every day. Many volunteers discover their intended future career through community service. School-supported community service programs encourage students to become more active, reasoned citizens, respectful of the benefits of living within a community and of the importance of "giving something back."

The following is a brief framework to use as you discuss community service and project ideas with your students. Service projects are often much more successful when student volunteers are able to define (1) the community need to address, (2) their plan of action to respond to that need, and (3) their specific volunteer role (job) in the resulting community service project. Volunteers who have some ownership feel more needed for, and therefore more responsible to, the project itself.

## ORGANIZING A COMMUNITY SERVICE PROJECT WITH YOUR CLASS

1. How do we define "community"? What are some examples of the different communities in which we live? (Examples: school, neighborhood, work, religious, cultural, socioeconomic)

2. What needs exist in this community (school or city, for example)?
    A. What needs do students perceive?
    B. What needs really exist?

   To determine community needs, students need to talk to members of the community, perhaps through informal interviews or an organized forum. Students will learn the first important lesson for any volunteer: *perceived* community needs are not always *real* community needs.

3. Identify the need the students wish to address.

4. Discuss what students can do to alleviate this need. What specific problem do they want to address? What sort of project will they undertake? What is the overall goal? To help direct this discussion, emphasize the need for SMART goals in planning service projects. SMART goals are: Strategic, Measurable, Attainable, Realistic, and Timely. Students need to consider whether they want to commit to a one-day project, or an ongoing project throughout the school year, for example. There are many elements to discuss at this point.

5. Who will be the partner at the service site? Identify a leader who will help you further define specific tasks that volunteers should complete.

6. Define responsibilities: yours, the site leader's, and the students'.

7. What sort of preparation or training is needed? Be sure to get parent permission, and verify any insurance or waivers that are necessary. Identify transportation if needed.

8. Take action! It's time to start doing service.

9. Reflect with students after the service. This is one of the most important, but often overlooked, aspects of any successful volunteer program. Reflection can occur on the bus traveling home from the service project, in class the next day, or once every few weeks after school. Some important questions to ask students during reflection time:
    - A. How do you feel about the service you performed?
    - B. What did you like about the project?
    - C. What made you feel uncomfortable?
    - D. What surprised you the most?
    - E. What made you happy/sad/angry/frustrated/confused?
    - F. What do you want to do differently next time?

    Reflection is a time for thought, consideration, and rejuvenation among students. Some volunteers may describe a bad experience at the service site. When this occurs, reflection is a crucial opportunity to listen to and validate the student's concerns, and consider solutions to the problem. The key to group reflection is that students can learn from their own *and* others experiences.

10. It is extremely important to recognize your students' volunteer efforts. You can: throw a party, put their names in the school and/or local papers, invite the television news crew to do a story on the students (you may or may not find it appropriate to do this at the service site), write letters to their parents, send them thank-you cards, give bonus points for service hours, and give gift certificates to local restaurants and stores (find sponsors).

EXAMPLES
Here are some examples of effective student service projects for you and your students to consider as you brainstorm for project ideas:

- Students at Chestnut Junior High School in Springfield, Massachusetts, produced a videotape about their neighborhood. To develop the videotape, they studied various immigrant groups who moved to the area around the school, learned interviewing skills, constructed oral histories with the long-time residents, and studied urban renewal.
- In a class studying world hunger, one student organized a concert at the school and raised $3,000 for Cambodian relief. The student later received a letter from a Cambodian orphanage indicating that she had saved over 200 children from starvation.
- Students in a social studies class in Blue Earth, Minnesota, were instructed to identify a community need that they could address related to their studies. The students noted that a welcome station on the edge of town was unsightly and reflected poorly on the town to everyone who drove through. By working with the city, county, and finally the state, the students learned first-hand the layers of rules and regulations involved in such a project. Eventually, their appeal to the state government led to having the site improved.
- Ninth graders at West Junior High School in Ponca City, Oklahoma, almost single-handedly developed, wrote, and lobbied for passage of a bill giving high school credit for community service and encouraging the integration of service learning into schools and communities. With minimal direction from one teacher, students needed only a single session of the state legislature to pass the Oklahoma Youth Community Service Act. Students involved in the community service bill received a commendation from the legislature, and the governor declared August 10, 1992 as West Junior High Youth Community Service Recognition Day.
- Students in a Washington, D.C., high school civics class helped a local immigrant study for -- and pass -- his citizenship exam
- As part of a social studies course, students at Northport (New York) High School organized a

conference on drunk driving for area high schools. The conference featured a skit students prepared to discourage drunk driving that was followed by a question-and-answer session.

- The Osceola (Florida) Teen Court is a unique dual-plank service-learning youthful offender sentencing program in which all participants (offenders as well as court "officers," lawyers," and "clerks"--everyone except the presiding judge) are teenagers. Each year, student volunteers take on the roles of defense and prosecuting attorneys, bailiffs, jurors, and clerks. Ninth through twelfth graders in the program serve for one school year and agree to abide by the law and respect the oath of lawyer-client confidentiality. Members of the Osceola County Bar Association design and conduct specialized training for the volunteers. For their efforts, student volunteers receive specialized instruction on the legal system and earn half a high school class credit (contingent upon the completion of a minimum of 60 hours service with Teen Court). Instead of fines paid by parents or guardians, offenders accept direct responsibility for their behavior through community service. The Teen Court program has helped reduce the burden on the juvenile court system; the rate of recidivism among the defendants was less than 4 percent.
- Conant High School in Illinois offers a social studies course that requires students to either volunteer in a community agency or write a research paper.
- Project Trust is a voluntary non-profit organization designed to develop the responsibility and self-reliance of youth ages 17-19 through volunteer work in third world countries. Participants work as teacher' aides and assist in the care of children, including children with developmental disabilities.
- Project ACT (Active Citizenship Today) of the Jackson (Mississippi) Public School system is a social studies-based service-learning project designed to educate young people in civic responsibility and participatory citizenship. Students research area needs, discuss problems they observe, brainstorm solutions in class, and then design service activities to address the problems. In the project, high school students present drug prevention programs to younger students and volunteer as mentors for Chapter One elementary school children. Students also organize Family Day activities at a local park; volunteer in nursing homes, rehabilitation centers, and voter's registration drives; and work in local campaign offices. Students are voting members of the district advisory board of ACT, which is associated with the local United Way. Initially offered in high schools, ACT is now being implemented at middle schools as well.
- As part of their government class, seniors at West Ottawa High School in Holland, Michigan, worked with community and school agencies to start a breakfast program at an elementary school that draws from the lowest socioeconomic area of the district.

*Students can also...*

- help register voters or provide them transportation to polling places
- organize, with the help of the League of Women Voters, voter registration of all 18-year-olds at their school
- help staff a day-care center near polling places
- become pen pals with students from former communist countries, many of whom understand English
- survey youth about their needs and opinions and convey this information to policymakers
- after reading about and discussing current events, prepare friendship boxes for children in disaster areas around the world (the students can consult the local Red Cross about appropriate items to include in the boxes)
- research the needs of people in oppressed areas around the world and collect items to send such as clothing, personal items, and medical supplies
- teach their peers about the dangers of substance abuse and about other issues.
- develop plans for reducing hunger in their community
- track and publish the voting record of local officials

- volunteer to work for political candidates of their choice
- sponsor debates between candidates for local elections
- research statistics cited by candidates for office
- study issues and educate the public about them from a non-partisan perspective
- work with local institutions to help solve problems such as graffiti, shoplifting, drug use, etc.
- serve as conflict mediators in their school and community
- learn about homelessness by volunteering in a soup kitchen
- write foreign governments to ask for improved treatment of prisoners
- research current events and present the information to younger students
- produce maps and guides for local parks, libraries, and organizations

*These service project examples have been reprinted from Learning by Serving: 2,000 Ideas for Service-Learning Projects by Joseph Follman, James Watkins, and Dianne Wikes, 1994.*

# ESOL Instructional Strategies

(English Speakers of Other Languages)

*by Susan Oliveto, Milwee Middle School, Orlando, FL*

The goal of the classroom teacher is to identify the essential or appropriate learning objectives from a content lesson and modify them to fit the language level of the Limited English Proficiency student without diluting the concept or cognitive focus of the lesson and to present them using instructional strategies that meet the needs of the LEP student. Below is a list of ESOL instructional strategies to help you meet this goal.

1. Total Physical Response (TPR): Students are asked to incorporate action into language learning. The student responds to commands using his/her whole being.

2. Multisensory Approaches: Multisensory approaches use the senses of sight, smell, hearing, taste, and touch to create alternate input channels for information. By recognizing that students have different learning styles, multisensory approaches bombard the students with different ways to understand concepts. Teachers tap those alternate input channels to understanding by incorporating all the modalities.

3. Experiential Teaching: Experiential teaching creates a context through an activity or experience for both content and language learning to occur. Experiential teaching lends itself to contextualized vocabulary development.

4. Vocabulary Development: Vocabulary taught in context using realia, visuals, or demonstration. May include vocabulary file cards with pictures, student created subject area vocabulary dictionaries, and use of vocabulary templates.

5. Whole Language Activities: Whole language activities are student initiated opportunities to learn about the language as they pursue projects of interest to them. The teacher acts as a coach or a facilitator to language development.

6. Journal Writing: Journal writing calls for students to keep a journal or diary which is only shared with the teacher. Such highly personal writing builds on student interest and expressive capabilities.

7. Cooperative Learning Strategies: Cooperative learning strategies refer to pairing or grouping of students to do worksheets, complete projects, or to resolve problems. The key is to create communicative opportunities for the LEP student to use the content vocabulary and structures independently.

8. Sustained Silent Reading: Sustained silent reading works well with LEP students since it allows them to read a selection of their choice at their own pace.

9. Language Experience Approach (LEA): By using the Language Experience Approach, teachers build on a student's existing language. Reading activities can occur within the parameters of a student's language ability.

10. Direct Instruction: Direct instruction involves teachers consciously teaching children *how* to think, by modeling aloud the process through which the teacher has developed thought. A

step-by-step process is observed in mapping out a problem-solving strategy. Students are eventually taught the *way* to develop thinking strategies. Eventually they are weaned to performing their own.

11. Inquiry Approach: An inquiry approach involves discovery learning and is a corollary to learning through experiences. Inquiry approaches lend themselves to the development of both critical thinking skills and language. Students are encouraged to discuss and problem solve in small groups.

12. Visuals: When a spoken or written word or idea can be further represented by a visual, it reduces the complexity of a task. Visuals such as charts, maps, videos, illustrations, and diagrams allow the listener one more clue to comprehension.

13. Hands-On Activities: Allows the LEP student to explore and discover things through multimodal input. Language proficiency can be developed along with content through activities such as cooking projects, drawing and constructing maps, making dioramas, role-playing historical events, conducting experiments, and using manipulatives.

14. Use a Model or Sample of a Finished Project: A model or sample of a finished project gives the LEP student a guide to what is expected. The student can use the model as a visual guide when the teacher is not able to give further directions.

15. Provide Demonstrations or Modeling: Modeling is the demonstration and explanation of a process or product by the teacher.

16. Preview/Review: The lesson material is previewed prior to being presented in order to provide the LEP student with the necessary background information (vocabulary background) to help make the concepts presented in the lesson more comprehensible. The review comes after the content lesson and helps to reinforce the concepts presented, and also provides a comprehension check.

17. Caretaker Speech: Speech used with students that has been modified in order to accomplish meaningful communication. Caretaker speech uses shorter, simpler sentences than in adult communication and includes repetition and often exaggerated intonation.

18. Mapping Techniques and Graphic Organizers: Mapping techniques and graphic organizers provide a visual way to link concepts and ideas and help students activate existing knowledge and relate it to new learning situations.

19. Highlight key concepts in textbooks with a yellow marker.

20. Locate or develop simplified worksheets that use fill-in-the-blanks, multiple choice, or true/false.

21. Simplify an activity by reducing the number of items an LEP student has to complete.

22. Provide LEP students with additional time to complete written activities, projects, readings, and tests.

23. Use outside resource people as aides in the classroom.

24. Use parent volunteers as aides in the classroom.

25. Use the ESOL instructional assistant or teacher as an aide in the classroom.

26. Use peer tutors as aids in the classroom.

27. Organize and implement interdisciplinary units in conjunction with the ESOL instructor.

28. Multicultural Enhancement: ESOL students bring with them two priceless assets, their *language* and their *cultures*. Utilize ESOL students in your classrooms as a resource by providing opportunities for them to help others learn about their native countries. When appropriate, highlight aspects of their cultures, such as foods, music, art, costumes, languages, laws, governments, and literature in your lessons.

29. Use Creative Evaluation: When students take pencil and paper in hand for a test, they are often tested on language ability as well as content. Content teachers should use a combination of creative evaluation strategies as indicators of student knowledge of content.

    * observations and interviews
    * oral responses
    * checklist
    * dramatizations
    * demonstrations
    * flash cards
    * drawings
    * subject picture dictionaries
    * magazine, newspaper, and catalog cut-outs
    * projects
    * graphs and charts
    * time lines
    * portfolios
    * journals
    * open book tests
    * open notebook tests
    * simplified short answer
    * simplified matching
    * simplified fill-in-the-blank with word bank
    * simplified multiple choice

RESOURCES

Hallman, Clemens L. (1991). *Language-Sensitive Content Instruction Institute Packet.*
Hallman, Clemens L. (1993). *ESOL Strategies for Limited English Proficient Students Institute Packet.*
Hopkins, Eunice E. (1990). *ESOL Guide for Secondary School Teachers.*

# Family Involvement
in Law-Related Education

*"I learned the way a monkey learns - by watching its parents."* -- Queen Elizabeth II

Governor Chiles once posed the analogy that the education of children is much like a three-legged stool: the cooperative effort of family, school and community is necessary for its success. Citizenship and law-related education, like all types of education, should and does begin at home. As children grow and learn to live as individuals in our modern, democratic society, they watch their parents and elders for cues as to the *value* of active interest and participation in civic affairs. In short, parents and elders have the ability to teach (or not teach) their children that even one person has an important voice and valuable opinions. This very basic notion of individual worth in society will not only encourage participation in civic life, but will foster confidence and self-esteem as children grow up with the realization that their very existence deems their thoughts and opinions worthwhile.

These are but a few ways that families can involve themselves in their child's civic education. Adopting even one of these suggestions can make a difference; you will no doubt think of more ideas as you go along.

*Family members who work in law-related careers can:*

- visit the child's classroom to talk about your career and/or conduct a mock work activity (trial, investigation, hearing, patrol, arrest, mediation, etc.)
- arrange a class field trip to your place of employment
- sponsor an intern
- serve as a mentor
- coach a mock trial team
- form a community partnership between the child's class and your place of employment
- volunteer at extracurricular law-related activities/competitions
- help a teacher start a Law or Criminal Justice Club/Society
- start a Teen Court program through the courthouse
- start a Ride-Along program through the sheriff's department
- write a letter to your local paper supporting the school's efforts in law-related education
- tell your state and congressional representative about the school's efforts in law-related education

*Family members who are recent immigrants can:*

- talk to the child's class about what it is like to be a *new* citizen of the United States

*Any family member can:*

- discuss the importance of rules & laws; talk about rules at home, both written and "unwritten"
- make sure that you and the child wear a seatbelt and model other law-abiding behaviors
- involve the child in family legal decisions by explaining the processes of buying a home or new car, for example
- encourage responsible behavior
- model respect for authority
- question authority
- educate the child about their rights as young citizens
- educate the child about their responsibilities as young citizens (what to do if they are in a car accident, witness a crime, break a city curfew, etc.)

- demonstrate the importance of contributing to the family's "common good" by requiring the child to obey rules and perform regular duties at home
- show interest in current events and politics through questioning and discussion; read the newspaper or watch the news together; watch politcal debates and talk about the speakers and issues
- know what the child is learning about citizenship in school and reinforce those lessons
- provide access to civic learning materials in the home: newspapers, magazines, books, and the Internet
- vote, and bring the child along
- help the child write to government officials expressing their views
- discuss positive ways to impact public policy
- visit the Florida legislature in session
- visit your legislator's office, or a member of your city/county commission
- discuss issues such as personal v. societal responsibility
- volunteer with the child for a community service project
- join a civic organization
- recycle
- question their experiences with discrimination of any kind, and/or sexual harassment
- ask how they feel about violence in the media, and violence at school
- talk about violence and other means of resolving conflicts
- show the child how you resolve conflicts in your life (at work, with a friend or neighbor, etc.)
- become a certified mediator
- encourage debate on any subject
- encourage critical analysis, rather than factual recall or quick acceptance, in all areas of life
- remind the child that the "why" is more important than the "who", "what" or "when"

# Feature Films
## in Law-Related Education

Law-related education, with its close attention to the concepts and processes of our system of justice, can often profit from reflection on broad questions about the nature of community, authority, and justice in a free society. In raising such broad questions, the humanities are the most engaging vehicles, and no field of the humanities is more engaging than that of literature and its handmaiden, the theater.

The best of law education employs great stories and plays in the classroom. The complexities of human nature, the web of human relationships and obligations, and the dynamic conflicts are often best understood through drama. The story is action, played out before the students' eyes, ears, and sentiments, but yet not too close or too real to inhibit reflection and discussion.

One form of drama used for law studies is the feature film. Well selected feature films can engage minds while raising great questions about the law and social organization, about the law and the pursuit of justice. A number of powerful (and acceptable) films come to mind-- Gideon's Trumpet, A Man for All Seasons, High Noon, Sounder, Inherit the Wind, Judgment at Nuremberg, The Verdict, and Animal Farm. To show how such films can be used in law studies to raise broad, reflective questions, two teacher idea sheets are printed below. The first, by Kathleen M. Schmidt, focuses upon the classic The Oxbow Incident. The second, by Susan Alexander, offers teachers ideas for using Billy Budd, Peter Ustinov's version of Herman Melville's enduring tale.

*Kathleen Schmidt is a teacher at Wakulla County High School. Susan Alexander is a graduate student at Florida State University.*

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### THE OXBOW INCIDENT

(Black/white movie, 75 minutes, starring Dana Andrews, Anthony Quinn, Henry Fonda, and Henry Morgan. Directed by William Wellman.)

Two cowboys, played by Henry Fonda and Henry Morgan, ride into a small western town. The town's citizens are upset about the cattle rustling that is occurring in the surrounding area. Strangers are suspect, including the two cowboys. They visited the town in the past but are not residents of the area.

Word comes that a local and popular rancher has been killed and his cattle stolen. His best friend is outraged and calls for volunteers to join him in looking for the rustlers. A town merchant, Davies, cautions the group against taking the law into their own hands. He asks the two cowboys to get the judge and sheriff.

The sheriff is out of town and the deputy, Mappes, states he will form a posse. The judge reminds Mappes that he does not have the legal authority to swear in a posse. The judge, the bartender and Davies try to persuade the group not to engage in an act of vigilantism. It almost works until Pancho, an employee of a town resident, the Colonel, tells of seeing three men and cattle with the murdered rancher's brand moving through a mountain pass. Mappes swears in the posse and, since the group will not be dissuaded, the two cowboys, Davies, and a black minister decide to accompany the posse.

When the group of approximately thirty men and one woman reaches a campsite in the mountains, the colonel takes over and directs the action from this point on.

The three men, a Mexican, an Anglo rancher, and a senile old man, are accused of the crimes of murder and rustling. There is no evidence of their guilt but they cannot prove their innocence. The determination of justice is left in the hands of an unlawful posse intent on revenge.

*Vocabulary* Vigilante, posse, mob, justice.

*Themes*

1. Legal authority. Who has the legal authority to determine guilt or innocence? How is this legal authority given? Are there any conditions which would warrant citizens taking the law into their own hands to determine guilt or innocence? What if the three men were guilty, does that legitimize the actions of the posse?

2. Evidence. What is evidence? What are the rules of evidence? What is the difference between circumstantial, hearsay, and second-hand evidence? What role does evidence play in determining guilt or innocence? Can the evidence presented in a trial result in the conviction of an innocent person? If it does, how and why does this occur?

3. Rights of the accused. What are the rights of the accused in our judicial system? What rights are guaranteed today that would not have been in effect in the early years of he 20th century? What rights of the accused, if any, were violated in The Oxbow Incident?

4. Majority rule. A basic concept of democracy in the United States is majority rule. Would majority rule be a good method to be used by juries for capital offenses? Is majority rule used in any jury decisions? Give examples of the use of majority rule in decision-making process at any level in the U.S. judiciary system. How was majority rule used in The Oxbow Incident? Was the use of majority rule in this situation consistent with goals of our legal system?

*Culminating Activity*

Many of the people who participated in the posse may have been called for jury duty if a trial had taken place. Stage a mock trial at the campground using the characters who participated as the judge, jury, witnesses and attorneys. For example: Sparks, the minister, as the judge, Davies as the attorney for the defendants, and the two cowboys serving on the jury. Would the same outcome have occurred with this facade of justice in place?

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### BILLY BUDD

(1960 black/white movie, 119 minutes, starring Robert Ryan, Terence Stamp, Peter Ustinov, Melvin Douglas, Paul Rogers, and David McCullough. Directed by Peter Ustinov. Based upon a story by Herman Melville.)

Billy Budd is the story of a young man recruited from a British merchant ship by Britain's Royal Navy while Britain is at war with France. The Royal Navy has some questionable philosophies on motivating its men and subsequently part of its fleet had been experiencing mutinies aboard certain vessels.

Billy arrives on the ship when the mood is tense, the officers are fearful of mutiny, and also fearful that the men will hear of the other mutinies. This fear and the latent psychosis of the Master of Arms cause him to rule with an iron fist. Billy, however, is a sort of light in a dark world. He is always cheerful, honest, and respectful of authority. It is these characteristics that drive the Master of Arms crazy and make him determined to get Billy to slip up so he can inflict disciplinary action upon him.

The Master of Arms tries through the whole movie to get Billy to do something that warrants disciplinary action. As the story progresses, it is obvious that he will not be able to accomplish this as Billy has found favor with the Captain, other officers, and especially the seamen. The Master of Arms decides he must resort to drastic measures to accomplish this task. He accuses Billy, in front of the Captain, of instigating discontent among the men, conspiring to mutiny, and various other crimes again the King. Billy, not being able to find the words to defend himself, strikes the Master of Arms and the blow is fatal. The Master of Arms dies smiling, knowing that the punishment for striking a high-ranking officer is death--he has finally gotten to Billy.

The officers put Billy through a formal court-martial hearing and none of them wants to find him guilty. They almost sign a self-defense verdict, but the Captain reminds them of their oath to uphold military law. Military law (The Articles of War, The Admiralty) states that in time of war any crew member who strikes a high-ranking officer must be hanged. Although none of them wants to hang Billy, they cannot come up with a justification for allowing him to escape hanging. Their oath is to uphold the law of King and county, and the law is black and white. The Captain even points out that their verdict might be different during peacetime but now they are at war with France, and they must be true to the laws that pertain to time of war. Billy is hanged.

*Themes*

1. War vs. Peace. What is the reasoning behind having two separate codes of law? Why should codes of conduct and law be different during time of war? What are some circumstances that cause the need for different codes? Does "justice for all" exclude people in the military in time of war?

   Do you think that wartime codes need to be black and white? Is it justice when you leave no room for circumstances? Or intentions?

2. Military vs. Civilian. What are the reasons behind having separate military and civilian codes of justice and punishment? Why are military personnel held to higher scrutiny than civilians, especially when the military (seamen) are simply private citizens forced ("impressed") into service on a naval vessel in wartime?

   Do you think there should be different standards? If you do, should the standard be of military caliber for all, or civilian?

# Field Experiences

for Law-Related Education

Field experiences offer students a wonderful opportunity to experience what they study in class. In law-related education, teachers can arrange field experiences at courthouses, law firms, police stations, correctional facilities, and mediation centers to name a few. A field experience involves more organization and planning than a typical field "trip"; it is necessary to spend time developing a quality experience with a representative from the site. Students need to really experience something, not just see it or hear about it. They should collect data for further study back in the classroom. Some examples of law-related field experiences are:

VISIT THE CAPITOL BUILDING (TALLAHASSEE). Tour the Old Capitol and new building. During legislative session, observe house or senate meetings; tour the Rotunda to observe the lobbying going on. Meet with a lobbyist. Arrange a meeting with your district's representative. Meet with bill filing staff to discuss the procedures to pass a bill. Visit the media center and navigate the Legislative Home Page.

COURTHOUSE VISIT. Observe a trial. Talk with a judge, attorneys and court administrators about the legal process. Talk with a translator about the specific issues faced by non-English speaking immigrants who go through the justice system. Conduct a mock trial in an empty courtroom.

LAW OFFICE VISIT. Talk with attorneys of various specialties, as well as support staff about their careers and everyday work. See the various motions and documents that lawyers prepare for a case. Conduct a mock trial.

MEDIATION CENTER VISIT. Learn about the mediation/conflict resolution process. Observe a mediation in process, if possible. Conduct a mock mediation. Talk with professional mediators about starting a mediation program at school.

CORRECTIONS FACILITY. Watch the Florida Law Related Education Association video "Life Inside" before visiting any state or local corrections facility. This will help students become better informed before the visit, and prepare better questions to ask. At the facility, talk with administrators about their work and specific challenges faced in that facility. Discuss the demographics and backgrounds of the inmates. Arrange for inmates to talk with students about their life within the justice system and everyday life behind bars.

SHERIFF'S DEPARTMENT. Meet with various levels of law enforcement officers and discuss their careers and the types of cases they handle. Meet with officers who focus on juvenile crime. Let some students participate in a "ride-along", while others observe casework and radio dispatch being performed at the station. Involve students in role-plays wherein officers present typical situations that they face in public and how they handle them. Simulate a crime scene investigation.

POLICE ACADEMY (TALLAHASSEE). Meet with instructors and students and learn about what the academy experience is like. Sit in on classes and participate in trainings (when appropriate). This can be done in a group, or you might arrange for individuals to "shadow" police academy students during these activities; students can join together afterwards and compare their various experiences. Simulate an event and have students write crime scene reports.

## Field Experience Student Reaction Form

Name:______________________________ School:______________________

1. What kind of agency/individual was involved in the experience? (check one)
    - ( ) A police department/officer
    - ( ) A court/court official
    - ( ) A corrections agency/representative
    - ( ) A community agency/representative
    - ( ) An attorney
    - ( ) Other (Who?)______________________________

2. Do you feel that you learned anything from the experience?
    - ( ) Yes
    - ( ) No

3. What do you feel you learned?______________________________________

    ______________________________________________________________

    ______________________________________________________________

    ______________________________________________________________

    ______________________________________________________________

    ______________________________________________________________

    ______________________________________________________________

    ___________________________________________________

4. Who arranged for the field trip? (Check one or more)
    - ( ) Your teacher
    - ( ) Members of the class
    - ( ) Other (Specify)________________________________________

5. Following the field trip experience, what happened? (check one or more)
    Did you:
    - ( ) discuss the experience with the other members of your class?
    - ( ) discuss the experience with your teacher?
    - ( ) report back to the class on the experience?
    - ( ) do something else? (Explain)______________________________

6. Did the field trip experience influence your views regarding our legal system?
   ( ) Yes. It makes me feel more positive.
   ( ) Yes. It made me feel more negative.
   ( ) No. It had no real effect upon my feelings one way or the other.

7. How would you rate the experience overall?
   ( ) Extremely valuable
   ( ) Quite valuable
   ( ) Somewhat valuable
   ( ) Not valuable....a waste of time

8. Additional Comments (optional):________________________________________
________________________________________________________________
________________________________________________________________
________________________________________________________________
________________________________________________________________
________________________________________________________________

*Adapted from the Constitutional Rights Foundation: Guidelines for Resource Experts in the Classroom.*

# Internships
## in Law-Related Education

An internship is a temporary, focused work experience in which the intern (usually a student) is given an opportunity to learn more about the inner working of a program, organization or career field that he or she is considering as a potential career focus. In law-related education, an internship can help a student to decide among the many and varied careers related to law and criminal justice.

Internships provide students with an opportunity to demonstrate human relations, communication, and employability skills necessary to prepare them for post-secondary education or entry into the job market in law-related public sector organizations. By enhancing and legitimizing classroom instruction, students apply information learned as they observe, participate, and develop competencies through real-life experiences in legal, judicial, and/or criminal justice systems under the supervision of an employer. In addition, many employers recognize that interns are among the most motivated students, taking full advantage of the educational opportunities around them and possessing the initiative and drive necessary to succeed in their future career. It is not uncommon for employers to use internships as a means to identify and train future employees.

Internships can range from a one-week "externship" over the winter or spring break, to a part-time after-school position, to a full-time summer position. It is more likely that students would earn credit for a summer internship. Most, though certainly not all, internships provide no monetary compensation except perhaps a stipend to defray transportation and meal costs. In the case of internships for academic credit (see the Court Observer Intern Course description in Section II for an example), a school assignment/job requirement ratio might be established detailing grade determination (ex: 50% for each based on assignments by the teacher and work evaluations). Weekly written assignments may be given in advance with the requirement that they be turned in or mailed to the teacher each week. It is advisable that both supervisor and student keep a detailed record of work completed and goals met, and set aside time each week for questions and discussion about what the intern has observed. Many interns keep journals to record their impressions during this often first exposure to the world of work.

Some examples of worthwhile goals for the intern are to:

- Research careers related to the particular field and within the organization.
- Identify organization's goals and objectives.
- Describe work environment.
- Describe employer's responsibilities; describe intern's role in relation.
- Identify organizational chart and duties, responsibilities, and authorities at each position.
- Identify personal internship goals
- Identify strengths and weaknesses of participating organization. Conduct a needs assessment for the organization.
- Define job performance concepts.
- Describe training program of the organization; describe ideal training program.
- Define operating procedures of the organization.
- Define, describe, identify, evaluate management qualities and objectives.
- Describe organization's policies: payroll, work schedule, leave, smoking, customer service, promotion, performance, benefits, et cetera.
- Describe job skills and education necessary for employment in the organization.
- Project career options in changing society.
- Describe the economic impact of the organization.

- Identify factors of job satisfaction.
- Identify strategies for managing conflicts at the workplace.

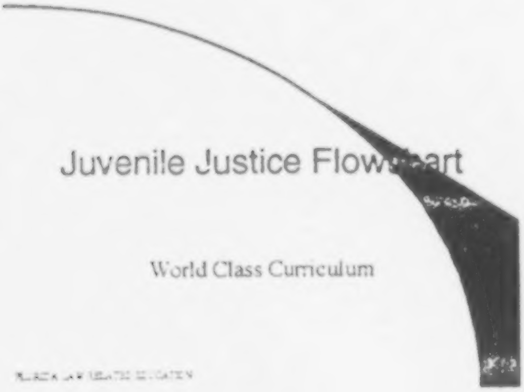
Teachers will want to keep in mind the following necessary documentation: safety guidelines/requirements, student responsibility agreement, employer responsibility agreement, transportation permission/car insurance information, parental permission, job description, student employment application, weekly and final evaluations (for supervisor and intern), Social Security Number, W-2 form, birth certificate or driver's license, Certificate of Eligibility to Work (ESE-529), and a copy of DVE 305.

Teachers and supervisors will need to establish attendance policies (according to school board requirements) on tardiness and absenteeism, and outline procedures to follow if either should occur (e.g. necessary phone calls and documentation).

# Juvenile Justice Flowchart

The Department of HRS has traditionally been responsible for the supervision of Florida's juvenile offenders and the administration of juvenile justice facilities and programs statewide. The 1994 Florida Legislature adopted sweeping reforms which included the creation of a new Department of Juvenile Justice.

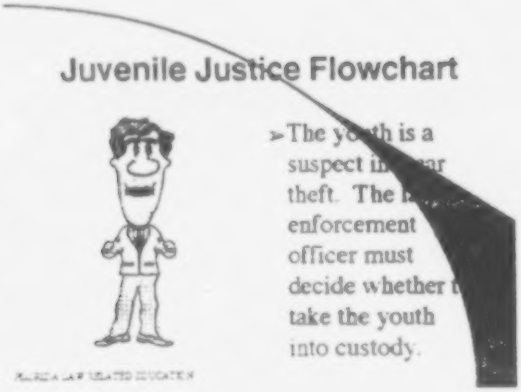
Gloria Washington of Ft. Lauderdale High School has developed this Juvenile Justice Flowchart presentation using Microsoft PowerPoint software for Macintosh computers. The presentation illustrates the steps a juvenile may experience once introduced to the Juvenile Justice system. Reproductions of the presentation have been included here. Please e-mail or call FLREA at (904) 386-8223 to request a free copy of this presentation on disk.



Juvenile Justice Flowchart

World Class Curriculum

FLORIDA LAW RELATED EDUCATION



**Juvenile Justice Flowchart**

➢The y th is a suspect in ar theft. **The** enforcement officer must decide whether t take the youth into custody.

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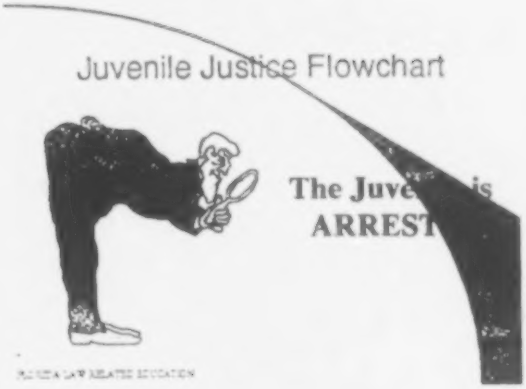

Juvenile Justice Flowchart

**The Juve is ARREST**

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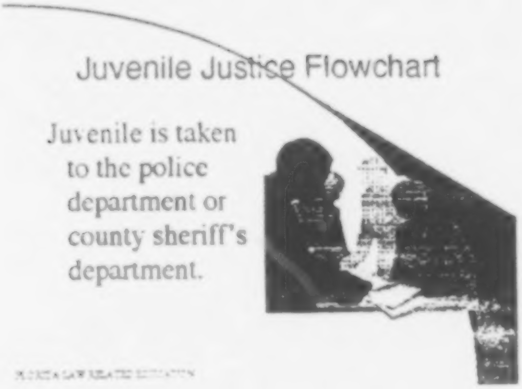

Juvenile Justice Flowchart

Juvenile is taken to the police department or county sheriff's department.

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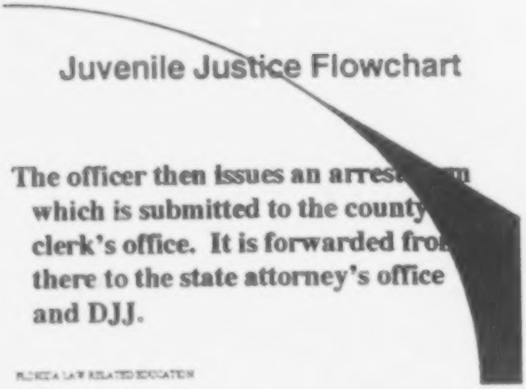

**Juvenile Justice Flowchart**

**The officer then issues an arrest m which is submitted to the county clerk's office. It is forwarded fro there to the state attorney's office and DJJ.**

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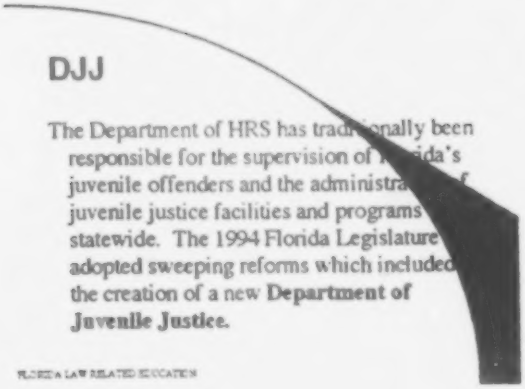

**DJJ**

The Department of HRS has tradi onally been responsible for the supervision of ida's juvenile offenders and the administra f juvenile justice facilities and programs statewide. The 1994 Florida Legislature adopted sweeping reforms which included the creation of a new **Department of Juvenile Justice.**

FLORIDA LAW RELATED EDUCATION

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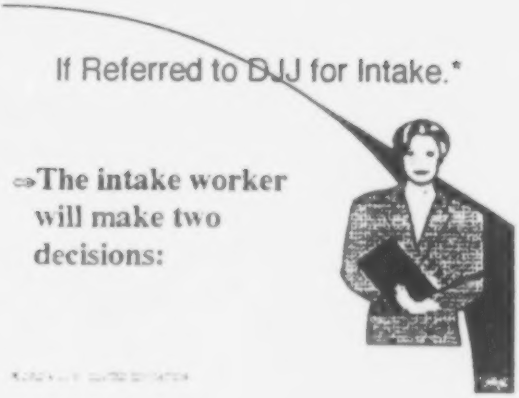

If Referred to DJJ for Intake.*

⇨The intake worker will make two decisions:

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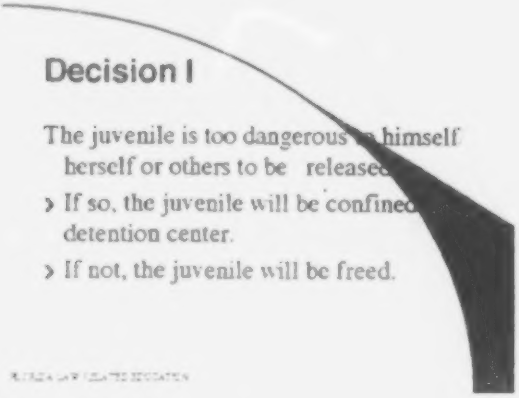

**Decision I**

The juvenile is too dangerous himself herself or others to be released

› If so, the juvenile will be confined detention center.

› If not, the juvenile will be freed.

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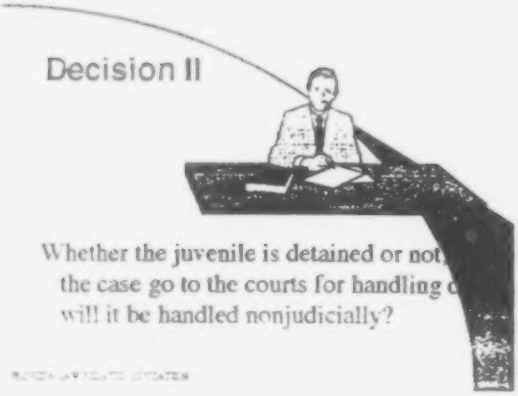

Decision II

Whether the juvenile is detained or not, the case go to the courts for handling o will it be handled nonjudicially?

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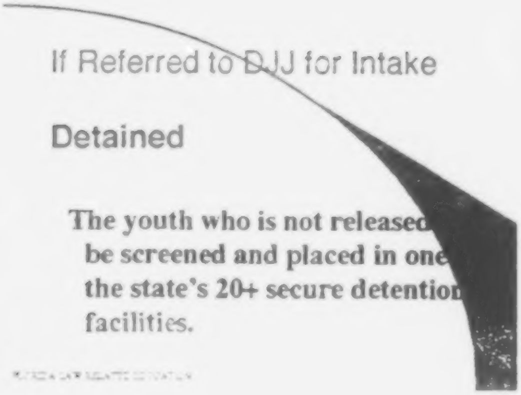

If Referred to DJJ for Intake

**Detained**

**The youth who is not released be screened and placed in one the state's 20+ secure detentio facilities.**

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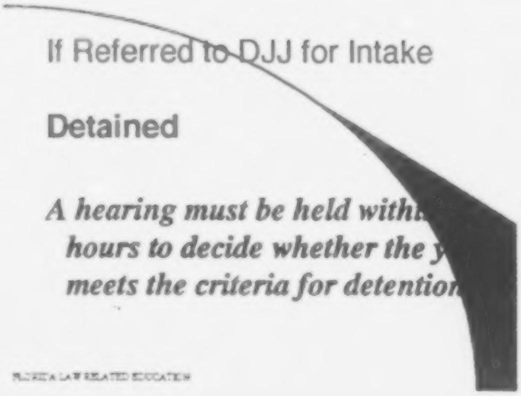

If Referred to DJJ for Intake

**Detained**

***A hearing must be held withi hours to decide whether the y meets the criteria for detention***

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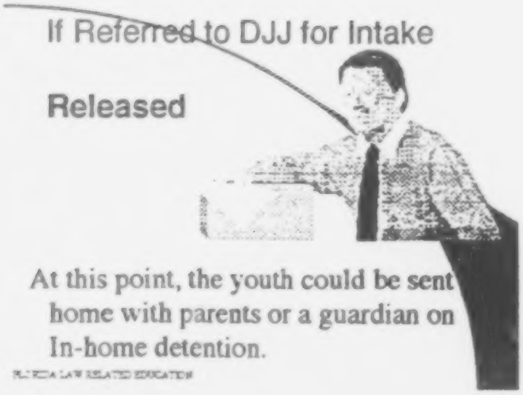

If Referred to DJJ for Intake

**Released**

At this point, the youth could be sent home with parents or a guardian on In-home detention.

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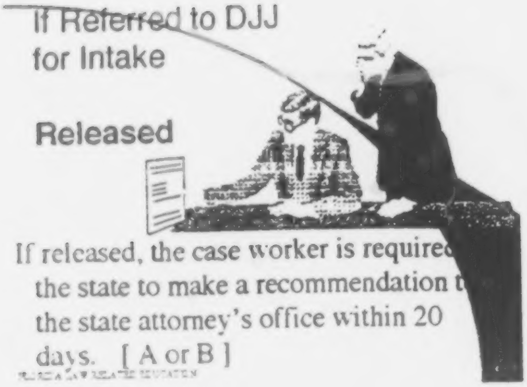

If Referred to DJJ
for Intake

Released

If released, the case worker is require
the state to make a recommendation t
the state attorney's office within 20
days. [ A or B ]

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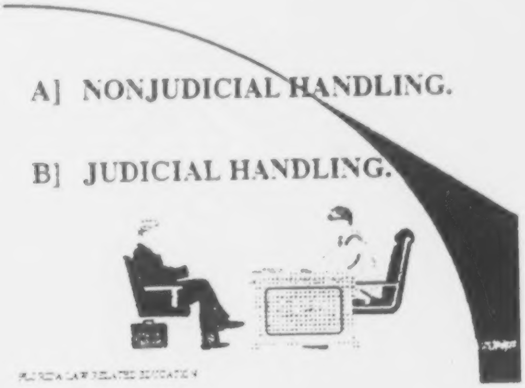

A] NONJUDICIAL HANDLING.

B] JUDICIAL HANDLING.

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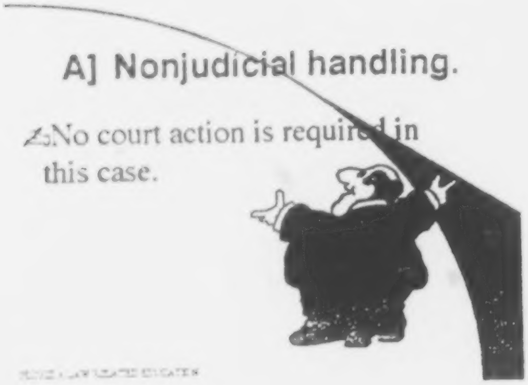

A] Nonjudicial handling.

✍No court action is required in
this case.

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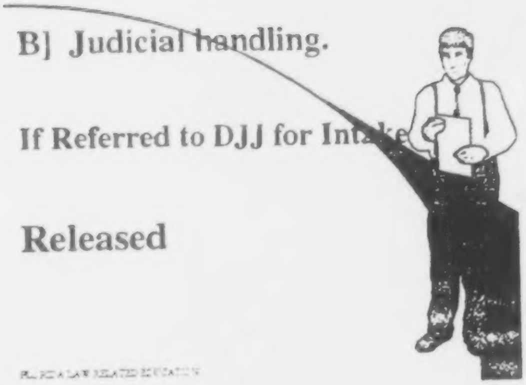

B] Judicial handling.

If Referred to DJJ for Inta

Released

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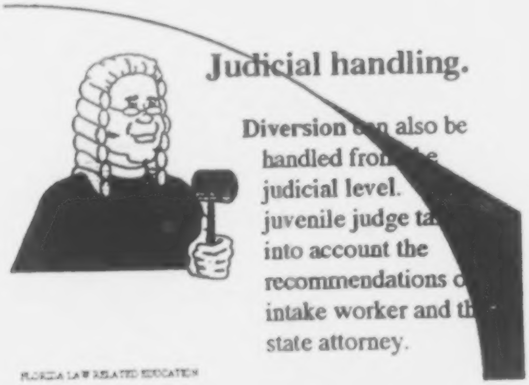
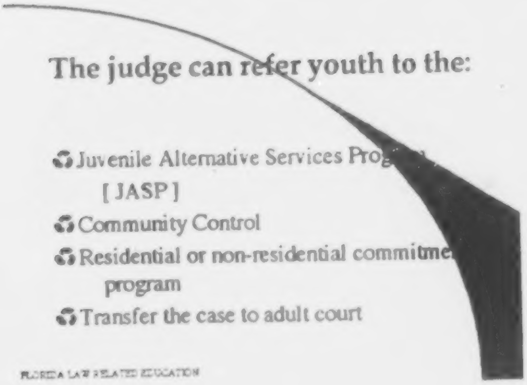


Judicial handling.

Diversion c also be
handled fro
judicial level.
juvenile judge ta
into account the
recommendations o
intake worker and th
state attorney.

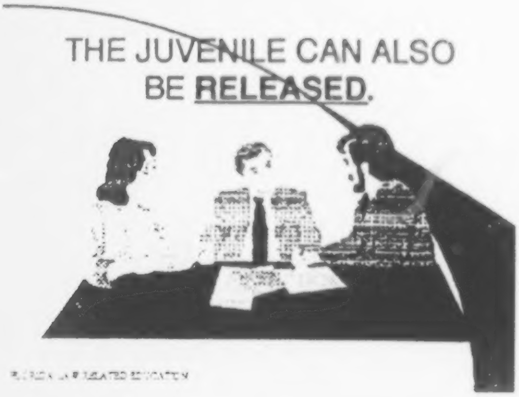
FLORIDA LAW RELATED EDUCATION



The judge can refer youth to the:

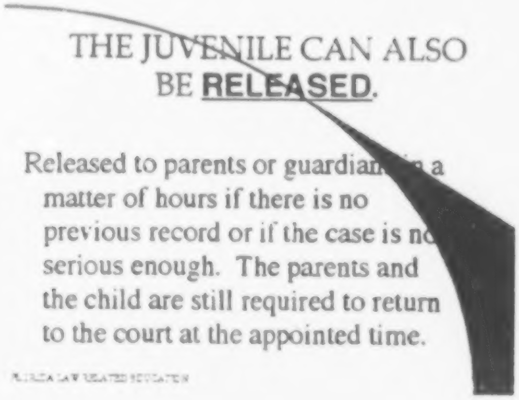
- ♻ Juvenile Alternative Services Pro
  [JASP]
- ♻ Community Control
- ♻ Residential or non-residential commitme
  program
- ♻ Transfer the case to adult court

FLORIDA LAW RELATED EDUCATION



### THE JUVENILE CAN ALSO BE **RELEASED**.

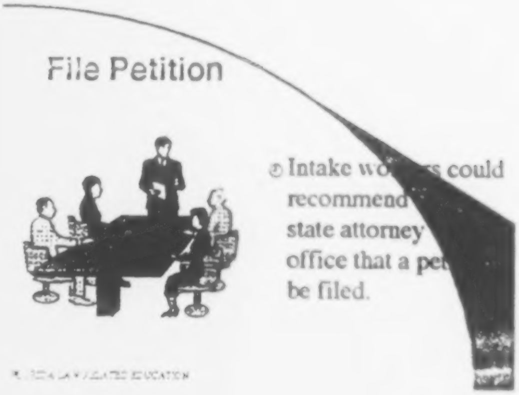
FLORIDA LAW RELATED EDUCATION



### THE JUVENILE CAN ALSO BE **RELEASED**.

Released to parents or guardia a matter of hours if there is no previous record or if the case is n serious enough. The parents and the child are still required to return to the court at the appointed time.

FLORIDA LAW RELATED EDUCATION



### File Petition

- Intake wo s could recommend state attorney office that a pe be filed.

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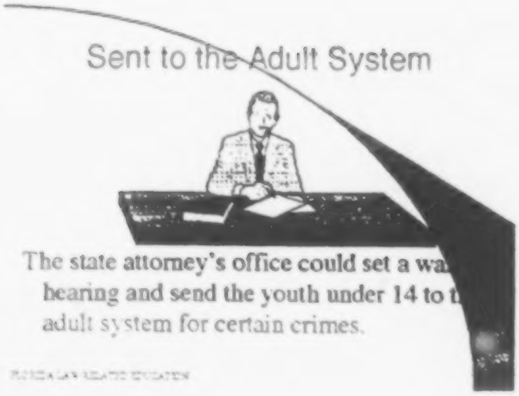
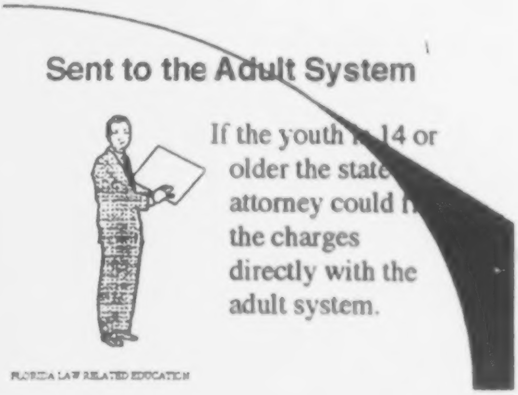


### Sent to the Adult System

The state attorney's office could set a wa hearing and send the youth under 14 to t adult system for certain crimes.

FLORIDA LAW RELATED EDUCATION



### Sent to the Adult System

If the youth 14 or older the state attorney could f the charges directly with the adult system.

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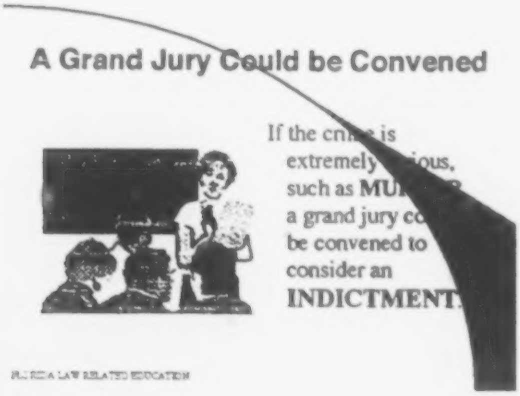

### A Grand Jury Could be Convened

If the cri is extremely ious, such as **MU** a grand jury co be convened to consider an **INDICTMENT**.

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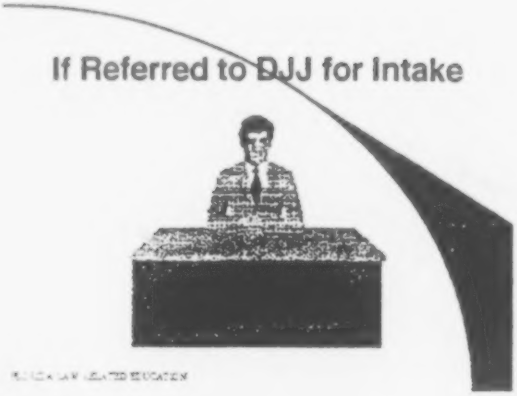
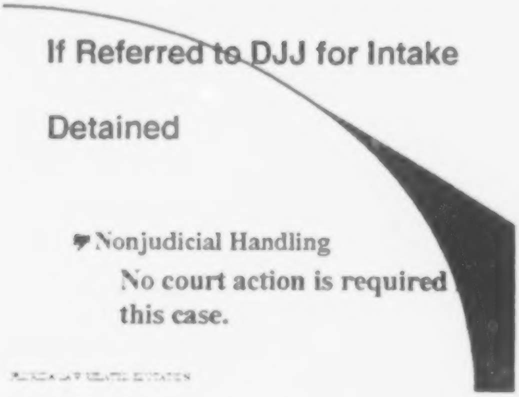


### If Referred to DJJ for Intake

FLORIDA LAW RELATED EDUCATION



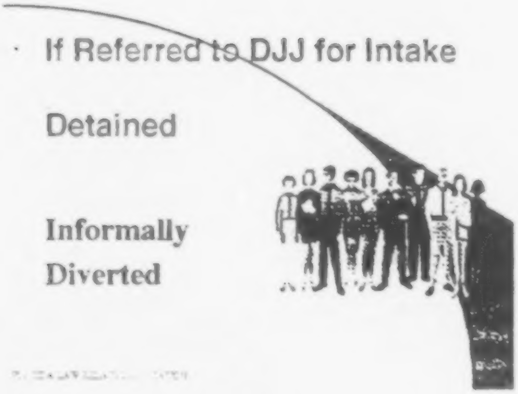
### If Referred to DJJ for Intake

Detained

- Nonjudicial Handling

  **No court action is required this case.**

FLORIDA LAW RELATED EDUCATION

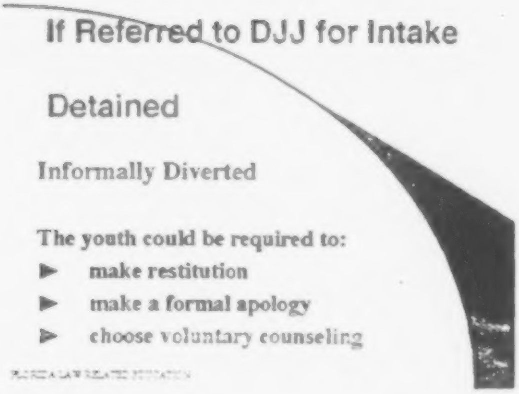


### If Referred to DJJ for Intake

Detained

**Informally Diverted**

FLORIDA LAW RELATED EDUCATION



### If Referred to DJJ for Intake

Detained

Informally Diverted

**The youth could be required to:**

- **make restitution**
- **make a formal apology**
- **choose voluntary counseling**

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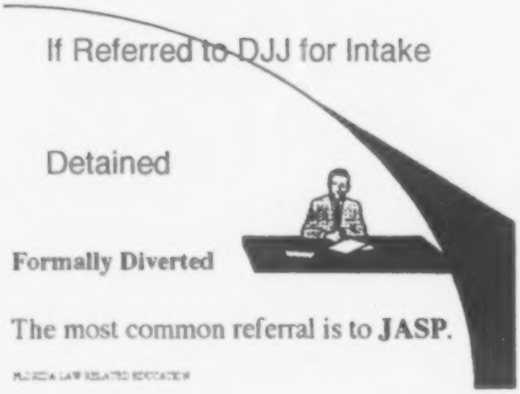

### If Referred to DJJ for Intake

Detained

**Formally Diverted**

The most common referral is to **JASP.**

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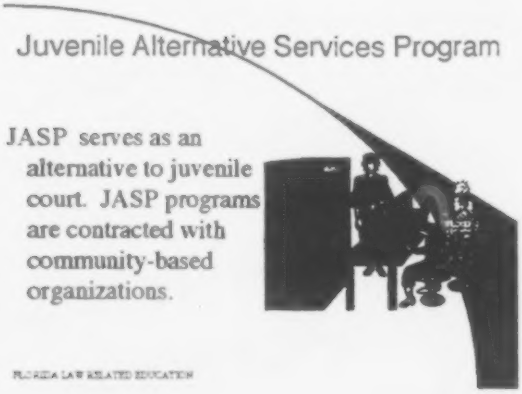

### Juvenile Alternative Services Program

JASP serves as an alternative to juvenile court. JASP programs are contracted with community-based organizations.

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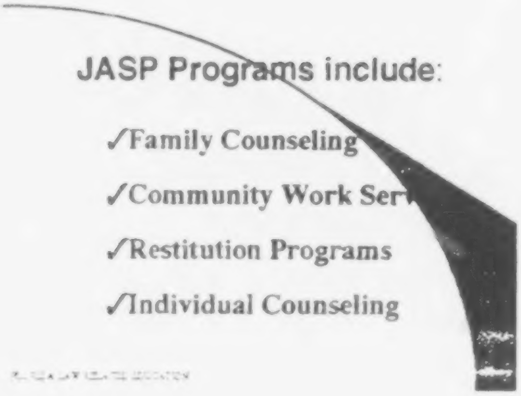

## JASP Programs include:

- ✓Family Counseling
- ✓Community Work Ser
- ✓Restitution Programs
- ✓Individual Counseling

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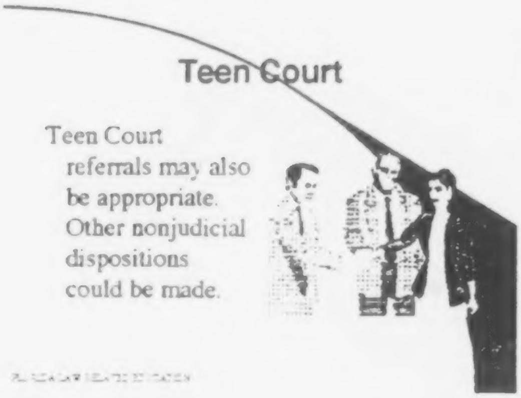

## Teen Court

Teen Court referrals may also be appropriate. Other nonjudicial dispositions could be made.

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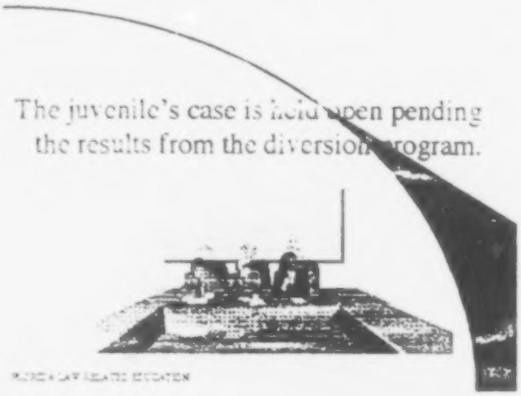
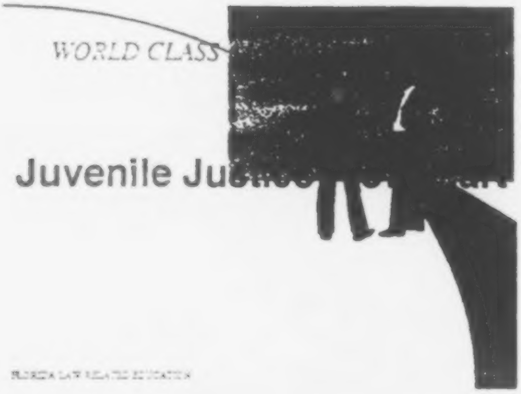


The juvenile's case is held open pending the results from the diversion program.

FLORIDA LAW RELATED EDUCATION



WORLD CLASS

## Juvenile Ju

FLORIDA LAW RELATED EDUCATION

# Literature
## in Law-Related Education

H. Talbot D'Alemberte, former President of the American Bar Association, drew upon Harper Lee's _To Kill a Mockingbird_ to make a point about the law and a sense of community. ". . . I suggest to you that Atticus Finch found his full measure of conviction and courage and compassion - - his full humanity - - not in his DNA or his law studies. Rather, he found them in the streets of Macomb, Alabama, as he walked, for a time, in the skins of Walter Cunningham, Tom Robinson, and Arthur Radley." And so it may be with Law Studies and Criminal Law Assisting students that they may develop empathy, inspired commitment to the highest values, and a sense of the great issues in the law within a democratic nation by using fine literature in their law study.

That literature comes in great novels such as John Steinbeck's _The Grapes of Wrath_, Majorie Kinnan Rawlings' _The Yearling_, Herman Wouk's _The Caine Mutiny_, and Robert Penn Warren's _Night Rider_.

That literature comes in superb plays such as Robert Bolt's _Man for All Seasons_, Clifford Odets' _Waiting for Lefty_, Elmer Rice's _On Trial_, Lillian Hellman's _The Watch on the Rhine_, and _Inherit the Wind_ by *Jerome Lawrence and Robert E. Lee*.

That literature also comes in surprising short stories such as Agatha Christie's _Witness for the Prosecution_ and Brett Harte's _The Outcasts of Poker Flat_.

That literature also comes in intense historical treatises.

Two teacher idea sheets are reprinted below to illustrate the use of literature - - the great possibilities open to teachers and their law studies students. The first addresses J. Anthony Lucas' Pulitzer-Prize winning book, _Gideon's Trumpet_; the second encourages the use of Harper Lee's _To Kill a Mockingbird_. Both idea sheets were written by Jennifer Eakin, Social Studies Teacher at Godby High School, Tallahassee, Florida.

### _GIDEON'S TRUMPET_

In this lesson, students examine the process by which the United States Supreme Court makes decisions and what precedent those cases set. Particularly, this unit will focus on the "Right to Counsel" and its establishment. The toll that the Supreme Court uses to make decisions is their interpretation of the United States Constitution. This lesson identifies three key amendments. The Fifth Amendment, specifically the clause, "nor be deprived of life, liberty, or property, without due process of law." These rights were incorporated (applicable to all states) through the due process clause of the Fourteenth Amendment (ratified in 1868). The Sixth Amendment provides that "in all criminal prosecutions, the accused shall enjoy the right to have the assistance of counsel for his defense." At one time this meant that, except in capital cases, a defendant had the right to an attorney, only if he/she could afford one.

However, in 1938, the Supreme court required the federal courts to appoint attorneys for the indigent defendants in all felony cases. Twenty-five years later, in the case of Gideon vs. Wainwright, the Supreme Court further extended the right to counsel to all felony defendants, whether in state or federal court. In 1972 the Supreme Court further extended this ruling by requiring that no imprisonment may occur, even in misdemeanor cases, unless the accused is represented by an attorney.

As a result of these decisions, criminal defendants who cannot afford an attorney are appointed one free of charge by the government.

What if we did not have the right to counsel in all cases? How does the decision of the Supreme Court effect common everyday life and people? Students will read J. Anthony Lucas' *Gideon's Trumpet* to identify the precedent that the United States Supreme court set in 1963 regarding criminal defendants' rights. *Gideon's Trumpet* is about the story of Clarence Earl Gideon and his actual case in Panama City, Florida. In this case, Gideon was charged with unlawful breaking and entering into a poolroom. Gideon asked the trial court to provide him with a free lawyer because he was too poor to hire one himself. The state court refused to provide him with an attorney. It said that state law provided free attorneys only to defendants charged with capital offenses. Gideon was found guilty and given five years in prison.

The Fourteenth Amendment to the constitution says that no state may deprive a person of life, liberty, or property without due process of law. Gideon argued that to try a defendant for a felony without providing him with an attorney violated his right to due process of law. His case, *Gideon v. Wainwright*, came before the U.S. Supreme Court, January 15, 1963, and they agreed with Gideon in an unanimous decision, March 18, 1963. This story demonstrates the need for due process and the protection of individual rights, as well as demonstrating some important insights into our Supreme Court case processing system.

## OBJECTIVES

The teacher will provide students with a working knowledge of the basic legal concepts that underlie the Constitution and the case review process of the Supreme Court. Students will be able to apply the steps of this process to certain parts of the book. Students will be able to explain Gideon's use of the principle of due process of law studied in this unit to ask the Supreme Court to grant certiorari.

When you have finished this activity, you should be able to explain why due process is important to the American criminal justice system and be able to identify examples that justify the use of the Right to Counsel. Students will be able to distinguish between appeals to the state and national courts and explain how cases are heard in the Supreme Court.

## PROCEDURE

Provide each student with a copy of the constitution. Have them read the Fifth, Sixth, and Fourteenth Amendments. Discuss the definition of due process of law. Have the students draw a concept diagram demonstrating how the United States Supreme Court decides cases. Have the students read *Gideon's Trumpet*.

## FOLLOW UP DISCUSSION QUESTIONS

1. In the case of *Gideon v. Wainwright*, what was the precedent that the Supreme Court set? Who has to follow this precedent? Who would have to follow the precedent if the case had been decided in state appeals court?
2. Does the Gideon case apply to you if you are charged with a misdemeanor? Does it apply in a civil case?
3. Lead a discussion on the need for due process. Use quotations from the characters in the book to begin the discussion:
    - ". . . every common man knows that "innocent until proven guilty!", Gideon.
    - "When is someone entitled to counsel?", Supreme Court Justice.
    - "Even a simple man can represent himself in a simple case..." Supreme Court Justice.
    - "And justice for all... " Mr. Fortas.

- "U.S. Supreme Court has asked me if everyone should have an attorney." Mr. Fortas.
- "...the prisoners think he is Moses..." Narrator.
- "What additional demands will be made on attorneys..." Mr. Fortas.
- "Right to counsel is an indispensable safeguard..." Mr. Fortas.

4. Do you think court-appointed attorneys are as good as those who are privately paid?
5. What are the costs and benefits of public defenders?
6. Assume a defendant wants to handle his or her own defense. Would this be allowed?
7. Assume a lawyer knows that his/her client is guilty. Is it right for the lawyer to try to convince the jury that the person is innocent? Why or why not?
8. Describe the political atmosphere of the Supreme Court before Gideon's case. Do Supreme Court Justices seek out cases that interest them, waiting for one that spirits their cause, or do they read each case carefully? Who picked Gideon's brief to be decided upon? What is the role of a Supreme Court assistant clerk? The Warren Court was known for taking liberal stances on social issues; do you think this court was more sympathetic to Gideon's cause?
9. Why was *Betts v. Brady* so important? *Scottsbrough*?
10. What is the role of the librarian in prison? What does this book say about the ability for a common man to be heard by the Supreme Court?
11. Does the tone of the political-social environment affect Supreme Court cases?
12. Why did the United States Supreme Court give Gideon the advantage (Mr. Fortas' staff v. young Florida assistant attorney)?
13. This case changed legal history; what was the essential point of Gideon's brief (he wanted a fair trial)? What issue did this case hold for Florida (historically reserved states' rights v. Supreme Court precedent)?

EVALUATION

Have the students refer to the newspaper, media, or a local attorney to find a case to discuss where due process, specifically the "Right to Counsel" could have changed the outcome. Encourage the students to analyze the arguments used for due process and have each class participant formulate his/her position on the necessity of a due process system. What types of cases do you think the Supreme court is waiting for now?

CONCLUSION

By living in the United States, students have the unique rights encompassed in the due process of law model. The foundation for our democracy lies in the rights established to protect all her citizens. "And justice for all." The due process clause and the right to counsel enable these individual rights to be protected, and without them in place there would be arbitrary and injustice legal actions. The students will have also learned what process a brief takes as it travels to the hands of the Justices and out into the public.

## TO KILL A MOCKINGBIRD

INTRODUCTION

In this activity students examine the issues surrounding juries in the United States legal system. The students are introduced to the concepts of the selection of jurors, the judge's instructions to the jury, the deliberation of the jury, and the verdict of the jury. There have been many cases in the recent past where students have heard of the fairness or unfairness of jury verdicts. Teachers can build upon the ideas that students already have about juries to explain their use and purpose. The teacher will introduce various ways to determine if a jury is effective or fair.

Students will read the literary classic and 1961 Pulitzer Prize winning novel, To Kill a Mockingbird. The book portrays a possibility of the reactions and verdicts a jury can pass despite the evidence. It is important that students understand what and who is on a jury and why. What is the goal of the Justice? To determine the truth, a defendant's guilt or innocence must be on trial. The attorneys attempt to persuade the jury to make a judgement based on a set of facts. It is the role of the jury that the men grow to despise.

The book is about a Southern attorney who defends a black man accused of raping a white girl. Atticus Finch is the attorney and father to Scout and Jim. This book takes students back to another time and place, where the Depression mood is serene and peaceful. This small Alabama town is rocked by the trial of Tom Robinson.

Although Tom is innocent, the townspeople decide he is guilty before the trial takes place. Judge Taylor has appointed Atticus, a most distinguished citizen, to defend Tom. His compassionate defense costs him many friends in this small town, but earns the respect and admiration of his two children and the black community. An obviously biased jury finds Tom guilty despite the lack of appearance of any real evidence. Tom is shot and Mr. Tom Ewell tries to take revenge on Atticus' children. He is stopped and killed by Bo Radley. Finally, small town justice is served as the sheriff does not condemn Bo for defending the children and killing Mr. Tom Ewell.

This novel demonstrates the necessity to have fair juries who deliberate the actual evidence and follow the court's procedures to find truth. The lesson will also introduce vocabulary and ideas that are used in the legal system such as circumstantial evidence, felony (rape), mens rea, defense council, and jury duty.

## OBJECTIVES

The teacher will provide students with a working knowledge of the basic legal concepts that underlie the courtroom procedures used in a criminal trial. Students will be able to apply the concepts of law and justice appropriately to evaluate the procedures used in this novel. When you have finished this lesson, you should be able to explain why law and justice and the role of the jury are important to the American criminal justice system and be able to identify examples of each.

Provide each student with a copy of the vocabulary terms used in this unit and discuss them before reading the novel.

## DEVELOPMENT

1. Discuss the characters - what were their flaws?
2. Have the students determine the possible differences between this trial and modern trials. What things are the same; what things would be different now? What would be the role of the media in a trial of this sort today?
3. Lead a discussion on what should have been the outcome when this case was originally heard. What would you have done if you were a juror? Use quotations from the characters in the novel to begin the discussion:

*Juries*

- "Scout sometimes you've got to climb in a man's skin and walk around and see things from another perspective." Atticus.
- "Difference between representing someone and believing someone." Atticus.
- "Atticus was good at explaining things." Scout.
- "Review this case without passion, but with the evidence." Atticus.

- "In the name of God, believe Tom Robinson." Atticus.

*Race Relations*

- "Broken a time-honored code in our society." Atticus.
- "Tom Robinson is a constant reminder of her guilt. She tempted a Negro." Atticus.
- "Evil assumption that all Negroes lie." Atticus.
- "Some people do unpleasant jobs for us, your father is one of those." Margaret.
- "Tom Robinson ran like a crazyman." Deputy.

4. Have the students write a new ending to the book (beginning with the court trial of Tom Robinson, only he is not found guilty) using the legal system.
5. Role play the mock trial of Tom Robinson; what would the student strategy be?
6. What really happened to Mayella Ewell; why did she accuse a black man of rape?
7. Discuss the role of shame in this film; poor people felt shame (the Cunninghams). Who else felt shame and why?
8. Who was the mockingbird? What is the significance of the story Atticus tells Scout and Jim about killing a mockingbird?
9. Based on the treatment of the murder of Mr. Ewell, are there other ways to handle misfortunate acts in our society without going to court? Who has the discrimination to file charges? What persuades an officer to make that decision? "Let the dead bury the dead."
10. Why did the men bring a posse to the jail? What was their response to Scout? What is the difference between vigilantes and people who let the courts determine the outcome? Why did both have the same result? Do you believe Tom would try to run away from the deputy? What really happened to Tom Robinson?
11. What do you think the feelings of the jurors were? Were they afraid of the lynch mob, too? Do you think they were threatened?
12. Was it a jury of Tom's peers? Why were all his peers sitting in the balcony? Would the jury have reached a different conclusion if women had been on the jury? Would the trial outcome have been different if it were held in another town where strangers were on the jury?
13. It is the responsibility of the State to provide a prima fascia case to the jury. In what ways did the State fail to do so in the case against Tom Robinson?
14. Scout and Jim are saved from death by Bob Ewell. Can the Sheriff's refusal to arrest Bo Radley be any more justified than his arrest of Tom Robinson? Is the duty of the Sheriff, who is sworn to "keep the peace", any different from a police officer who is sworn to "uphold the law"?
15. The town sees little in Atticus' role as an officer of the court. A lawyer owes his client the best defense possible. Atticus never explains this role to either his children or the townspeople. His only explanation is a vague "I couldn't look myself in the eye"? How would you have explained yourself to either the children or the town?

## EVALUATION

Have the students invite a member of the community who has served on a jury come to class and discuss a real case where the jury had to make a difficult decision. What was the outcome? Encourage the students to analyze the arguments used in this case; what was the role of evidence?

## CONCLUSION

The use of juries in the American legal system is an essential element to establish the protection of individuals from extreme punishment of the government and the right to a trial by your peers. However, juries are very unpredictable and can be swayed by cultural and societal standards despite the facts or evidence of a case. Students will learn how hard it is for juries to follow the instructions they are given to determine justice.

# Mediation Programs
in Law-Related Education

Conflict resolution programs are based on the recognition that conflict is a natural part of life, and that responses to conflict can be positive or negative, healthy or unhealthy. In responding to conflict, people have an opportunity to learn more about themselves and each other. Mediation is a type of conflict resolution process that places the task of resolving the conflict in the hands of the parties themselves. A trained mediator leads a confidential session in which parties discuss their differences and resolve to come to an agreement. Mediation provides an avenue for parties to vent their anger and frustration, talk out their problems, and avoid violence. In the school setting, mediation is an effective way to calm tensions between students before more serious or violent clashes occur which would require that students be referred to school personnel or appropriate authorities.

Many Florida schools have initiated student mediation programs to deal with conflicts that arise among students. Additional students are trained in mediation and conflict resolution techniques, and volunteer as neutral third parties who facilitate the mediation session. Generally, students are selected to become mediators based on their communication, leadership, and listening skills, as well as the level of respect shown by their peers, and their ability to maintain confidentiality.

Student mediation programs are successful because the participants have a confidential, cooperative environment in which to settle their differences in a manner agreeable to all. Students consider and discuss the nature of the conflict and their concerns, discern where common ground lies between the parties, explore options for resolving the conflict, and settle upon an agreement that is accepted by all parties. One very effective way for a group of students to become familiar with the process is through a mock mediation, in which students are assigned roles and follow a script of a typical mediation session.

For guidelines on constructing a student mediation program, or obtaining a sample mock medication to use with your students, you may wish to contact the following people and organizations:

- American Bar Association Special Committee on Youth Education for Citizenship
  541 North Fairbanks Court, Chicago, IL 60611-3314. Ph: (312) 988-6386, Fax: (312) 988-5032, E-mail: pnessel@attmail.com, Internet: http://www.abanet.org/publiced

  The ABA publishes a listing of Resources for Peer Mediation in Schools. Contact them to obtain a copy.

- CRADLE
  2714 Henning Drive, Winston-Salem, NC 27106-4502, 1-800-437-1054
  *Resolving Conflicts Peacefully*
  This book is a compilation of lessons involving a variety of topics and formats that were developed and field tested by classroom teachers. Individual lessons are also available through LREnet.

- The Florida Law Related Education Association
  1625 Metropolitan Circle, Suite B, Tallahassee, FL 32308. Ph: (904) 386-8223, Fax: (904) 386-8292, E-mail: ABPflreaED@aol.com
  "The Missing Peace: Families and Communities in Conflict"

This pamphlet discusses conflict and lists ways to deal with conflict effectively and productively in a non-violent manner.

- Robyn Jackson, King High School
  6815 North 56th Street, Tampa, FL 33610
  Grades 10-12
  Robyn Jackson has developed a highly successful Conflict Resolution Program at King High School and is a presenter for numerous organizations. She has original materials that are used in the program.

- National Association for Mediation in Education
  205 Hampshire House, Box 33635, University of Massachusetts, Amherst, MA 01003-3635, (413) 545-2462.
  Books, manuals, videotapes, and audiotapes are available on specialized topics at a variety of grade levels.

- NICEL
  711 G Street, SE, Washington, DC 20003. Ph: (202) 546-6644, Fax: (202) 546-6649, E-mail: carokulk@umd5.umd.edu
  Middle
  "Teens, Crime, and the Community"
  This book "helps teens understand how crime affects them and their families, friends, and communities, and it involves them in crime prevention projects that make their communities and more vital." One of the eleven chapters is on Conflict Management.

- NICEL/Social Studies School Service
  10200 Jefferson Blvd., P.O. Box 802, Dept. L9, Culver City, CA 90232-0802
  Grades 7-12
  "We Can Work it Out"
  132 page manual with reproducible student handouts that includes background information, lesson plans, and 16 student-centered, high-interest sample conflict situations to set up mock mediation sessions

- Peace Education Foundation
  P.O. Box 191153, Miami, FL 33119 or 2627 Biscayne Blvd., Miami, FL 33137
  (305) 576-5075

  All Grades
  "Fighting Fair for Families"
  An illustrated text that provides lessons for the whole family. The skills of cooling down, communicating, coping with problems, negotiating, and mediating are all taught. Available in English, Spanish, French, and Haitian Creole.

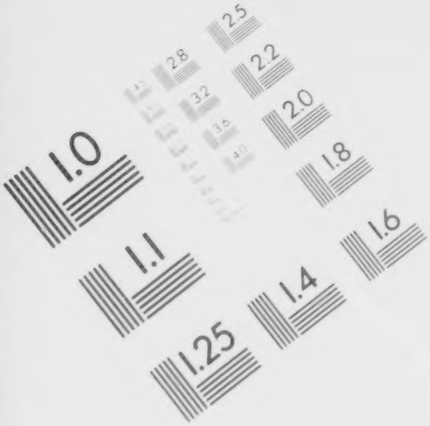
  Grades 4-12
  "Come in Spaceship Earth: Kids as Crew Members"
  "Students serve as crew members aboard Spaceship Earth, as they learn to work cooperatively in a common mission - survival and the improvement of the quality of life for the human family." Included is a music video in seven languages, a comprehensive teacher's guide, reproducible student pages, class simulation game, and a poster.

Grades 7-12
"Win Win!"
A magazine that teaches students the skills they need to resolve conflicts successfully and non-violently. It tackles the toughest problems that face today's teens, including violence, anger, conflicts, cultural differences, and sexual harassment. A video, teacher's guide, and poster are also available.

Grades 8-12
"Mediation: Getting to Win Win!"
This handbook teaches effective listening and questioning skills and contains information about anger, feelings, and the causes of conflict. The illustrated text contains a detailed, easy-to-follow model of the mediation process, a complete mediator's script and helpful tips for dealing with difficult situations, realistic conflict scenarios, a simplified script for quick reference, a glossary of mediation terms and advanced mediation techniques, a video, a teacher's guide with objectives, activities, discussion questions, two posters, and sample introductions and closures.

- Phi Alpha Delta Public Service Center, P.O. Box 3217, Granada Hills, CA 91394-0217. Ph: (818) 368-8103, Fax: (818) 363-5851
  High School
  "Respect, Reflect, Resolve"
  Includes violence prevention lessons plus introductory activities and a guide for implementing a school-based mediation program.

Local Citizen Dispute Resolution Centers may also have materials available. Check your local telephone book or contact FLREA for more information.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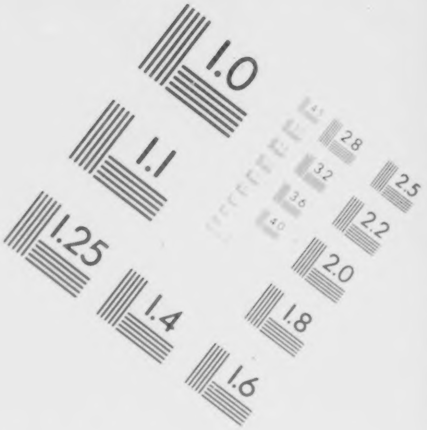
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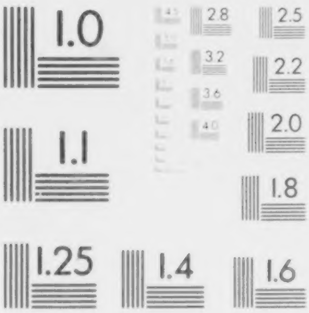
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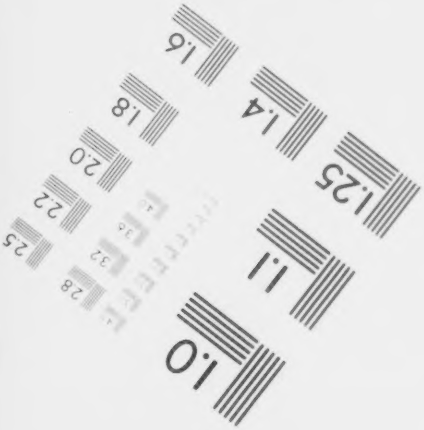
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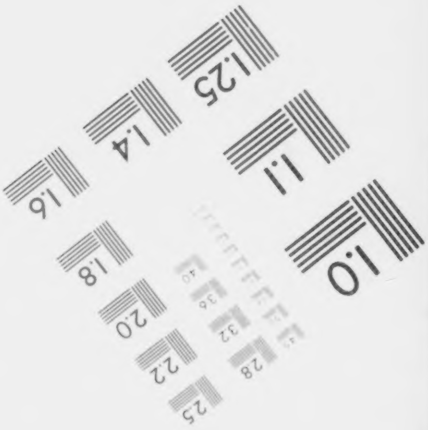
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# Mentorships
## in Law-Related Education

A mentor is a positive role-model who lends experience, perspective, knowledge and support to a person in need. Some mentors help their "mentees" through a specific period of growth, struggle or accomplishment their lives. Others become a life-long motivator for the mentee. For students, mentors can be adult friends, instructors, relatives, neighbors, religious leaders, coaches or employers just to name a few. The most important element of a strong mentorship is that it is a relationship based upon mutual interest, respect, and the open exchange of questions and ideas in a supportive, caring environment.

Specific to law-related education, a mentorship program strives to involve legal and law enforcement volunteers in ongoing efforts to promote law and citizenship education to both motivated as well as troubled youth. Mentors can: (1) show students how the law impacts their daily lives; (2) familiarize students with citizen rights/responsibilities; (3) increase knowledge of and appreciation for the legal and criminal justice system; (4) provide information and exposure to law-related careers.

In all mentorships, community volunteers make a commitment to serve as a mentor for one student for a specific period of time, perhaps two hours once a week for one semester. The time frame may vary depending on the individual needs and desires of the mentor and student. The role of the mentor is always multi-faceted, that of a tutor, listener, and advisor. The mentor gives positive reinforcement, shares information, raises confidence and self-esteem, and gives the student a strong link to a successful, caring adult. Mentors should be interviewed, screened, and respectful of the seriousness of the commitment to the mentorship. Pairings should be closely monitored through proficiency evaluations. Meeting times and locations may be flexible, but they may also be affected by school/district policy. Mentorships are not for pay and usually do not award academic credit.

### CAREER-ORIENTED MENTORSHIPS

Students should be paired with a mentor who shares some of their basic interests in the fields of law or criminal justice. Most likely, the mentor may represent a career field which the student is interested in pursuing. The student may be hoping for a mentor who is an example to follow, both in behavior and experience. The mentorship can be structured like a "shadowing" program, in which the student is a shadow of the mentor in his/her place of business, observing, questioning and participating in relevant and appropriate work activities. The student will learn about the necessary education, training or experience necessary for the career. In this type of mentorship, the student receives the direct benefit of exposure to new ideas, information, skills and people. The mentor may assist the student with school assignments or even make a presentation about their career to the student's class.

### PREVENTION-ORIENTED MENTORSHIPS

Mentorship programs have been developed specifically to meet the needs of the serious juvenile offender population. In such mentorships, students' needs relate only in part to understanding of the law and civic responsibility. Leon County's former TIMEOUT! Mentoring Program is an example. The TIMEOUT! Program trained volunteer mentors to conduct informal appraisals in a variety of areas of need for youth referred by Juvenile Court. Once needs were identified, mentors would develop, participate in and monitor a program of activities with the youth. The mentoring was designed to be comprehensive and to fill some of the gaps left by the heavily burdened juvenile justice system. Mentors often found that youth faced problems in:

Family Issues (usually a lack of parental involvement for a variety of reasons)

| | |
|---|---|
| Goal Setting | (difficulty conforming to societal expectations, lack of direction in life, difficulty living up to their own or others' expectations) |
| Behavior Management | (historically a lack of positive consequences for youth's accomplishments) |
| Environments & Activities | (lack of constructive free-time activities, lack of regular, positive, group social activities) |
| Civic Responsibility | (lack of "ownership" in or a feeling of responsibility to the community) |

# Outside Resource Persons

Advice to Resource Persons and Teachers
On Classroom Assistance In Law-Related Education

1. PRE-VISIT COMMUNICATION (a phone conversation or informal meeting should take place). The teacher needs to convey to each resource person the following information:

   a. Goals and objectives of unit being taught, what topic areas have been covered so far and what follow-up activities will take place after the resource person's visit.

   b. Proposed topic for the resource person and specific objectives of the lesson. (This could be mailed with a copy of pages from the text or with suggested materials for use in class.) This should be modified as appropriate and agreed to by both teacher and resource person.

   c. Number and age of students in class, including general reference to ability levels (reading, verbal, reasoning, etc.) and other information (e.g., personal interests, economic and social background, likelihood of prior personal experience with criminal or civil law or legal process).

   d. Length of class, typical methods used by teacher (lecture, roleplays, question and answers, simulations, small group work, field trips, etc.) and discussion of small group work, field trips, etc.) and discussion of suggested methods and teacher's role during the resource person's visit. (See suggested methods discussion under 2b.)

   e. Date, time and exact location for the visit. Discuss likelihood of cancellation by resource person or school schedule change. Exchange home and work phones.

2. DESIGNING THE LESSON FOR THE VISIT
   The teacher and resource person should:

   a. Agree on the specific objectives for the topic selected, which should fit into the overall curriculum being taught. Select a narrow topic for each class; broad overviews or attempts to cover too much usually don't work.

   b. Select methods and materials to use in the class.

   *Materials.* Use part of students' textbook, duplicate other LRE (law-related education) materials, or type up outline, list of hypotheticals, etc. *Students should not be asked to reach much material during class.* Cases or examples which are selected should be balanced. For example, teachers, and resource persons should be careful to avoid selecting cases which show exclusively either that the legal system has treated people fairly or that it has treated people unfairly. Resource persons and teachers should discuss what materials should be assigned ahead of time.

   *Methods.* Use more than one method during each class. Don't just lecture, but involve students through asking them questions, posing hypotheticals, calling for different opinions on controversial issues, conduction a roleplay with students or having the resource person and teacher act one out, or having students conduct discussions or otherwise work in small groups.

3. PREPARING THE STUDENTS FOR THE VISIT

On the day preceding the visit, the teacher should tell the students who the visitor will be, why he or she is coming, and what will happen in the class when the resource person is there. Students can be assigned certain readings ahead of time. Concepts which will maximize the visit can be taught beforehand or each student can prepare a list of questions on a specific topic to direct to the resource person. The importance of the visit can be stressed and the decorum and participation expected from students during the visit should be discussed.

4. THE CLASSROOM PRESENTATION

The resource person should:

a. Make reference to what happens in the real world, especially situations which relate to young people.

b. Be enthusiastic and lively, keep eye contact, and use humor.

c. Be objective about the legal system, and point out its strong points but admit its flaws, and also point out how it might be improved.

d. Be certain that both sides of controversial issues are brought out either by the students, the resource person or the teacher.

e. Frequently ask students if they have questions about what's been covered (but don't let tangents or long personal fact patterns take too much time). Admit when you don't know an answer and state you'll get the answer back to them.

f. Personalize the topic by mentioning things that happened to you and by asking students if they or their families have had personal experiences with the topic.

g. Involve the teacher in the class and if possible, co-teach it. Though the resource person may lead the class, the teacher can and should make introductions and state objectives for the class, raise clarifying questions or issues which have been neglected, help focus a rambling discussion, step in if problems occur, participate in a roleplay, etc.

5. DEBRIEFING THE VISIT AND FOLLOW-UP

During the class following the visit, the teacher should discuss the visit with the students. What were the major points made by the resource person? How did the class react to the visitor and the issues presented? Do they believe the use of the resource person helped them learn about the topic?

If a resource person is an advocate of a particular point of view, it is important to bring out the other side in the debriefing discussion. Consider asking students if the resource person had any particular biases. To provide a balanced approach, it is also available to invite another speaker who advocates the opposite position either at the same time or shortly following the visit.

Follow up activities to learn more about the topic should also be considered.

6. EVALUATING THE CLASS

The teacher should evaluate the success of the class and convey comments to the resource person for possible changes in future visits. This should be done as part of a letter thanking the resource person for the assistance. If there is a resource person coordinator (e.g., from an LRE project), provide that person a copy of the letter.

*Reprinted from the Constitutional Rights Foundation's* *Guidelines for Resource Experts in the Classroom.*

# Outside Resource Person's Evaluation Form

Agency Contact: ______________________________ Date of Visit: ____________

Teacher: ______________________ School: ______________________

- Did the teacher/student contact you in sufficient time to complete all arrangements for your visit to the classroom (i.e., directions to the school, preparation of material, etc.) or for their visit to your office?

  ( )Yes ( )No

- Were you adequately informed by the teacher as to what he/she hoped to achieve by your participation in the classroom or by the visit to your office?

  ( )Yes ( )No

- Might the communication between you and the teacher/student(s) have been improved?

  ( )Yes ( )No

- Do you think students were prepared?

  ( )Yes ( )No

- What kinds of preparations did you make prior to the classroom presentation/activity or prior to the visit?

- Please describe briefly the material you went over with the students.

- What techniques were used to communicate the subject matter to the students?

- What might you do differently if you went into that classroom again or had visits by additional students?

- Do you have any comments, suggestions, ideas to improve this program?

# Focus on Research - Performance Assessment

by Dr. Jim Croteau, Leon County Schools, Tallahassee, Florida

Performance assessments are much in the minds of educators in Florida as the Commission on Education Reform and Accountability moves us closer to required changes in the way student achievement is tested. This article will touch on the key elements of performance assessment and some of the important issues that surround it.

Performance assessment is defined by the U.S. Congress as "testing methods that require students to create an answer or product that demonstrates their knowledge and skills." Stephen Elliott (1995) describes a continuum of formats ranging from the simplest student-constructed open-ended responses to comprehensive demonstrations to portfolios of his quality work collected over time. All the tasks require that the students construct rather than select a response, students develop their approaches to the task under defined conditions, tasks resemble somewhat the use of skills outside school in the "real world", and student's learning and thinking skills are illustrated by successful completion.

Research has shown several benefits from using performance assessments in the classroom. One is that because students are required to more actively demonstrate what they know, the assessment may be a more valid indicator of students' knowledge, skills and abilities. Another is that by understanding how and where learning can be applied, students exhibit a greater interest and involvement in learning experiences and content areas. Additionally, students who are more actively involved in understanding concepts and constructing meaning in a variety of contexts, learn the content more thoroughly and at deeper levels.

Another benefit is that performance assessments encourage the curriculum driving the testing rather than testing determining the curriculum. In many places the standardized test content greatly influences the taught curriculum, no matter what the approved curriculum is. Performance assessments require that performance standards be identified first and the strategies for assessment follow. The influence on improving instruction is also great, as both teachers and students have a better understanding of what students need to know and be able to do and they can use the rubric or criteria to judge if adequate progress is being made or success is attained. Most important, with criteria for performance available during the learning process, students can judge for themselves the quality of their own work and learning.

The last benefit is that the assessment itself is an instructional event. Performance assessments allow students to learn from the experience of applying and extending knowledge and skills, reinforcing their learning or identifying areas for further development. When integrated into the classroom as ongoing measures of success rather than just a culminating activity, and especially if related to authentic and real world issues and problem tasks, they can be exciting and challenging to students and teachers alike.

Several issues and concerns have arisen related to performance assessments as they have been used by states such as Vermont, Kentucky and Maryland. These related to validity, reliability and costs. Given all the technical concerns, many teachers will leave it up to the district to develop performance assessments, rather than realize that these are powerful and not too difficult tools for use in their classrooms. With a few hints in mind, any teacher in any content area or at any level can develop and use authentic assessments to improve significantly classroom instruction and student learning. These suggestions drawn, from Elliott (1995) and McLaughlin and Warren (1995), include:

- Clearly define the important outcomes and related performance standards as not everything can or should be tested with this type of assessment.
- Select assessment tasks that are clearly aligned or connected to what has been taught.
- Share the scoring criteria for the assessment task with students prior to working on the task.
- Provide students with clear statements of standards and/or several models of acceptable performance before they attempt a task.
- Encourage students to complete self-assessments of their performance.
- Interpret students' performances by comparing them to standards that are developmentally appropriate as well as to other students' work.
- Provide accommodations for students with disabilities, such as, more time, alternative testing locations, alternative means of administrations, adaptive equipment or materials, or alternative forms of assessment.

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*This lesson, reprinted with permission from the author, appeared in Currents in Education, the Newsletter of the Florida State University Chapter of Phi Delta Kappa, June 1996 issue.*

# Professions

## in the Law and Law Enforcement

Many young people are aware of the most visible professional roles in our legal and criminal justice systems: judges, attorneys, law enforcement and corrections officers. However, these students may not be aware of the many other rewarding law-related careers that exist, or they may be unsure about what each profession entails in terms of the actual work performed and the qualifications needed to enter the field. This lack of knowledge can be intimidating to many students, creating an image that there are only a few paths to a career "in law."

As the following summary of law-related professions will show, there are a multitude of opportunities for persons of varying interests, skills, and educational backgrounds. Share this information with your students, or encourage them to research law-related careers on their own. A single stop at the library or one of the many career "pages" on the Internet can introduce students to many more law-related careers than they may have ever thought existed.

| Job Title | Description | Qualifications |
|---|---|---|
| Agriculture and Consumer Protection Specialist | Inspect production and/or sale of plants | Bachelors degree majoring in agriculture and 1 year experience. |
| Armed Forces | Military police, corrections specialist and detectives. | H.S. diploma or equivalent. Training programs required. |
| Attorney - Corporate | Act as both advocates and advisors in legal matters. | Bachelors and Law degrees. |
| Attorney - Government | Act as both advocates and advisors in legal matters. | Bachelors and Law degrees. |
| Attorney - Private | Act as both advocates and advisors in legal matters. | Bachelors and Law degrees. |
| Attorney - small town | Act as both advocates and advisors in legal matters. | Bachelors and Law degrees. |
| Border Patrol Agents | Federal law enforcement officials that make sure laws are observed by people crossing the border. They also try to prevent smuggling and illegal aliens. | Pass a civil service exam, good physical condition, and undergo a 14 week training program. May also be required to be fluent in Spanish. |
| Correctional Officer | Guard persons who have been arrested and are awaiting trial or those serving time in a penal institution. | H.S. diploma and certified by taking training at a junior college or other institution (one or two year programs). |

| Job Title | Description | Qualifications |
|---|---|---|
| Correctional Probation Officer | Work in correctional institution with those entering or leaving from probation. | Certified law enforcement plus training course for correctional probation officers. |
| Court Reporter | Record every word said in court. They can also record depositions, interrogations and other pretrial proceedings. | Attend a court-reporting school or similar program at a community college or university. |
| Crime Lab Technologist | Assist forensic scientist with the identification and classification of evidence related to criminal cases. | Bachelors degree in science with strong spoken and written communication skills. |
| Criminal Justice Parole Examiner | Determine if parole is appropriate. | Bachelors degree and 3 years experience in parole, probation, corrections, or law enforcement. |
| Criminal Justice Information Technician | This a non-certified position involving office work. | H.S. diploma or equivalent plus 3 years clerical or criminal justice experience. Vo. Tech. training or college can be substituted. |
| Criminologist | Study criminal laws, psychological conditions that cause crime, criminals themselves, and methods of rehabilitation. | A Masters or Doctorate degree in criminology. |
| Delinquency Case Management | Oversee juvenile cases under the Dept. of Juvenile Justice. | Bachelors degree in a related field. Courses in counseling, family affairs, and children helpful. |
| Department of Business and Professional Regulation | Investigate complaints of regulations violations for business set by the state. | Bachelors degree plus 1 year of law enforcement work. Experience can be replaced by college education. 20 hours per week. Experience with word processing advised. |
| Detention Case Worker | Supervise juveniles currently under detention in the Dept. of Juvenile Justice. | 1 year experience working with youths. H.S. diploma. Vocational training can substitute for experience. |

| Job Title | Description | Qualifications |
|---|---|---|
| Driver License Examiner I and II | Test applicants for driver licenses. | H.S. diploma and 1 year experience clerical or public contact. College credit can substitute for experience. |
| Educational Consultant | Advocate for strong law-related education programs in schools; provide support to teachers of law and criminal justice courses. Educate public about the importance of law-related education. | Bachelors degree recommended. Training in fundraising and public speaking. Experience as a teacher or lawyer helpful. |
| Forensic Scientist | Collect and analyze evidence found at crime scenes. | Bachelors degree in biology, chemistry, physics, genetics, microbiology or medical technology. |
| Forest Ranger | Patrol forest areas and report fires and other problems as they occur. | H.S. diploma, background search. Then must complete a training program and a 3 month probation period. |
| Guard | Protect people or property. May be part of a private security firm or government agency. | H.S. diploma. Usually training in police or military police preferred. |
| Inspector - Mobile Home | Look for violations of state building codes in mobile homes. | H.S. diploma or equivalent and 2 years experience in building inspections or construction. College or vocational training can substitute for experience. |
| Inspector - Health | Inspect for consumer safety in areas of agriculture, food and environment. Ensure that state and federal standards are met. | College training is generally preferred. In addition, training in the laws that apply will follow once being hired. Sometimes civil service exams are required. |
| Inspector - Regulatory | Immigration, customs, postal, aviation, motor vehicle, occupational and safety, revenue, and quality control are just some of the many types. | Specialized training and college training is preferred. Some areas require a Bachelors degree. Experience is important in some fields. |

| Job Title | Description | Qualifications |
|---|---|---|
| Investigator - Environmental Health Specialist | Monitor and inspect food services, residential facilities, child care establishments, public swimming pools. Respond to complaints and investigate corrective actions. | Bachelors degree in science. Can be substituted by work experience in certain health fields on a yearly basis. |
| Investigator - Workers' Compensation | Law enforcement or inspection skills used to investigate workers' compensation claims. | Bachelors degree plus 2 years experience in conducting investigations. Business skills helpful. |
| Judge | Interpret laws to resolve disputes between individuals and government among individuals themselves. There are trial and appellate judges. | Bachelors and Law degrees. Extensive experience in the legal field. |
| Law Enforcement - Duty Officer | This is a non-certified position. The job is of a support staff nature and usually administrative. | H.S. diploma. 1 year experience in teletype operation, law enforcement of other related fields. College education can substitute for experience. |
| Law Enforcement - Federal | Responsible for enforcing our federal laws. Examples: FBI, Secret Service, Drug Enforcement, Internal Revenue, and Alcohol Tobacco and Firearms. | FBI requires a Law degree. All others a Bachelors degree. Usually followed by a law enforcement training program. |
| Law Enforcement - Local | Enforce local and state laws. Are the primary defense against criminals. Start as patrolman but with more education or training can become detectives, crime scene investigators, etc. | Usually an Associates degree in law enforcement. Some areas require a Bachelors degree. |
| Law Enforcement - State | Patrol highways and enforce laws and regulations that govern the use of those highways. | Usually an Associate degree in law enforcement. Some areas require a Bachelors degree. Some states require additional training at a state academy of law enforcement. |
| Legal Assistant/Paralegal | Assist attorneys with research and clerical needs. | H.S. diploma or equivalent. Complete 2 to 4 year training program for legal assistants at a college or vocational school. |

| Job Title | Description | Qualifications |
|---|---|---|
| Legal Secretary | Handle most office work for attorneys. Additional responsibilities at the corporate level. | H.S. diploma plus secretarial school training helpful. Might be required to have a 2 year legal secretary degree. |
| Marine Patrol | Enforce environmental, marine resources and boat safety rules. Provide park security and investigate marine theft. | 2 year certification in law enforcement, plus additional paid training. |
| Mediator | Will strive to settle conflicts among individuals or groups. | Bachelor degree. Certification in mediation and conflict resolution. |
| Private Investigator | Gather information and evidence for clients, police departments and other agencies. | Associates or Bachelors degree with courses in law and criminology. Law enforcement training recommended. |
| Probation Officer | Counsel clients and make sure they follow the guidelines of their probation. | Bachelor degree. Law classes and writing skills helpful. |
| Protective Investigator | Child welfare casework. | Masters degree in social work. |
| Regulatory / Enforcement / Protection, Department of Transportation | Weight inspector. | H.S. diploma plus additional training. |
| Security Consultant | Plan, design and oversee the implementation of security systems that safeguard property from vandalism and people from harm. | Bachelors degree and certified by the Certified Protection Professionals. Must pass a written test and have 10 years work and/or educational experience. |
| State Wildlife Officer | Enforce environmental, and wildlife laws. Formerly titled "Game Warden." | H.S. diploma. Then after two oral interviews you must complete additional paid training. |
| Teachers - College / University | Teach or provide training in law. | Masters or Doctorate degree for professors. Instructors in law enforcement usually have a Bachelors degree in addition to law enforcement training. |
| Teachers - Secondary | Teach law-related courses. | Bachelors degree with a teaching certificate. |

## Student Courts

### for Law-Related Education

Student Courts are a method by which students hear and sentence classmates who have offended school conduct codes including parking violations. The purposes of Student Court are to direct minor cases away from the school's administration, allow defendants to be judged by their peers, and provide a forum for a hands-on look at the legal system by all students involved.

(Please note that there are distinct differences between Student Courts and Teen Courts. Whereas, a Student Court centers around conduct code infractions and takes place within a school, a Teen Court is open to students from across a county, and deals with more substantial cases which are heard at a real courthouse. A trained adult serves as the Judge in Teen Court, but a student may serve as the judge in a Student Court. See "Teen Courts" later in this section.)

In Student Court, defendants must come to court voluntarily with the understanding that there is a presumption of guilt. The Student Court then determines a sentence after hearing the defense attorney argue for the lesser punishment and the prosecution argue for the tougher. Depending on the severity of the case and whether it is a first, second, or third offense, sentences will vary from 2-20 community service hours, letters of apology, fines of $2-$30 for parking violations, and future service on 1-3 student court juries.

Students who are assigned leadership positions in the court have taken a modified "Bar exam" to determine their knowledge of the law and courtroom procedures. Those scoring highest become attorneys and judges, but all court personnel should have experience conducting mock trials. Every student within a particular school ought to be eligible to register for jury duty and can experience *voir dire* and the trial process.

Once all parts of the defendant's sentence have been carried out, defendants may be allowed to go on a field trip with the law team to the courthouse to observe juvenile court and an actual trial in session. Jury members who complete their service should receive certificates of appreciation and may also be invited to go on a field trip to the courthouse.

# Technology

## Using the Internet and Software in Law-Related Education

Today's students must possess some knowledge of computers and the Internet to succeed in the work world of tomorrow. As in all aspects of education, computers are being utilized in law-related education in a number of exciting and engaging ways. Students are learning about their systems of law and criminal justice, and their role as active, informed citizens in much more direct ways than ever before. Multitudes of software have been developed for this purpose and a variety of World Wide Web (WWW) sites can be useful tools for learning in law-related education. The following are lists of software and internet sites that you may helpful and interesting to you and your students:

### SOFTWARE

*Objection!*
This is an excellent computer "game". Engaging students as defense attorneys in a mock murder trial, *Objection!* requires and develops recognition skills and rapid thinking and analysis as students are asked questions by the prosecutor. The student must determine whether or not the questions are objectionable; and, if they are, must decide which objection is most appropriate.

The Florida Law Related Education Association has special authorization to distribute free copies on disk along with the accompanying text *Rules of Evidence for Witness Testimony* ONLY to Florida teachers involved in Mock Trial competitions and formalized Law Magnet programs. If you qualify, please contact FLREA for your free copy. Otherwise, you may contact Transmedia, Inc. for more information:

*Objection!*
Transmedia, Inc.
2735 N. Holland-Sylvania, Ste. B-2
Toledo, OH 43615-1844
(800) 832-4980 / (419) 531-9764

### CATALOGS

The Florida Law Related Education Association recommends the following catalogs, which promote excellent software and other resources for law-related eduation:

1. *Government & Law 1996*
   Social Studies School Service
   10200 Jefferson Boulevard
   P.O. Box 802
   Culver City, CA 90232-0802
   (800) 421-4246
   FAX (800) 944-5432
   E-mail: SSSService@aol.com

3. *Selected Software, CD-ROMs & Videodiscs for LRE*
   Center for Research and Development in Law-Related Education (CRADLE)
   Wake Forest University School of Law
   2714 Henning Drive
   Winston-Salem, NC 27106
   (800) 437-1054

## INTERNET SITES

Use these sites to "get started" on the Internet; there are sure to be many more:

*American Bar Association Special Committee on Youth Education for Citizenship (ABA/YEFC)*
http://www.abanet.org/publiced

*C-SPAN*
http://c-span.org

*Center for Voting and Democracy, The*
http://www.igc.apc.org/cvd

*Central Intelligence Agency*
http://www.odci.gov

*Civics Education: A Bibliography*
http://www.edushow.com/civnet/teaching/margs.html

*Civic Education in Democracies*
http://www.usia.gov/elections/wfciv.htm

CIVNET
http://www.ericir.syr.edu/civnet

*Civics, Social Studies and Service Topic Bibliography*
http://ww.nicsl.coled.umn.edu/bibliograhies_html/civsoctb.html

*Constitution of The United States of America*
http://pobox.com

*Council of State Governments*
http://www.csg.org

*Decisions of the U.S. Supreme Court*
http://www.law.cornell.edu/supct

*E-Mail Your Government*
http://www.destek.net

*ERIC Clearinghouse for Law-Related Education*
http://www.indiana.edu/~ssdc/lre.html

*Federal News Service*
http://fednews.com

*FedWorld Information Network*
http://www.fedworld.gov

*Federal Bureau of Investigations*
http://www.fbi.gov

*Federal Government Sites*
http://ww.afn.org/~acdec/fedsites.htm

*Florida Attorney General*
http://legal.firn.edu

*Florida Communities Network*
http://fcn.state.fl.us

*Florida Congressional Delegation*
http://policy.net/capweb/states/fl/fl.html

*Florida Corrections Commission*
http://www.dos.state.fl.us

*Florida Department of State, Division of Elections*
http://election.dos.state.fl.us/online.htm

*Florida Elections Online*
http://elections.dos.state.fl.us

*Florida Government*
http://www.afn.org/!acdec./st_sites.htm

*Florida Governor's Office*
http://www.eog.state.fl.us

*Florida Law Related Education Association, The*
http://www.versoft.com/flrea

*Florida League of Cities*
http://fcn.state.fl.us/flc/

*Florida Secretary of State*
http://www.dos.state.fl.us

*Judicial Online Super-Highway User Access System (JOSHUA)*
http://justice.courts.state.fl.us/index.html

*Legal Information Institute at Cornell University, The*
http://www.law.cornell.edu

*Library of Congress*
http://www.lcweb.loc.gov/homepage/lchp.html

*National Council for Social Studies Online*
http://www.ncss.org/online

*On-Line Sunshine - Bill Text and Calendars, Statutes*
http://www.scri.fsu:80/fla.leg

*State of Florida Legislature*
http://www.garnet.acns.fsu.edu/~w870g003

*State Law*
http://lawlib.wuacc.edu

*Surfing the Internet: Government Guide*
http://www.cs.fsu.edu/projects/summer94/group8/govt.html

*THOMAS - Legislative Information on the Internet*
http://thomas.loc.gov/

*U.S. Constitution Page*
http://www.law.cornell.edu/constitution/constitution.overview.html

*U.S. Federal Judiciary*
http://www.uscourts.gov

*United States Department of Education*
http://www.ed.gov

*United States Information Agency*
http://www.usia.gov

*Webcrawler Government & Politics Home Page*
http://webcrawler.com/select/govt.new.html

*White House - An Interactive Citizens Handbook, The*
http://www.whitehouse.gov

*Yahoo's Government List*
http://www.yahoo.com

*Your South Florida Government Page*
http://home.sprynet.com/inferserv/keiths/page5.htm

> The most appealing quality about the Internet is its inherent democracy. It will never approach newpapers for coherence or thoughtfulness, we candidly hope, and it will never equal television in its immediacy; but it is now coming into its own as a forum where most any individual can parlay a relatively small sum into a stage before a worldwide audience.
>
> -- Boston Globe July 10, 1995

# Teen Courts

for Law-Related Education

Teen Courts are juvenile diversion programs. First-time juvenile offenders can choose to appear before a county's Teen Court, which is a system of court proceedings where teenage students preside as officers of the court to conduct the hearing and sentencing phases for misdemeanor cases. The purposes of Teen Court are to direct minor cases away from the overworked juvenile justice system, allow defendants to be judged by their peers and accept responsibility for their actions, and provide all students involved with a greater understanding of the legal system and their role as citizens in society while they develop legal, interpersonal and communication skills. Teen Court demands the defendant's active participation throughout the entire process. The defendant agrees to be solely responsible for carrying out whatever sentence the jury assigns.

Trained volunteer students assume the roles of defense and prosecution lawyers, bailiffs, clerks, and jurors. All high school students in good academic standing and who are willing to maintain confidentiality about the proceedings are eligible. Those playing the roles of courtroom personnel must have additional training and experience with mock trials. The only adult involved in hearings is the Judge.

Not all juvenile offenders are eligible to go to Teen Court. For example, Leon County's Teen Court program will only hear the following categories of cases:

1. Trespass
2. Loitering and Prowling
3. Disorderly Intoxication
4. Possession of Alcohol
5. Misdemeanor Possession of Marijuana
6. Misdemeanor Possession of Controlled Substance
7. Misdemeanor Possession of Drug Paraphernalia
8. Disorderly Conduct - Fighting
9. Criminal Mischief
10. Misdemeanor Assault
11. Misdemeanor Battery
12. Petit theft, including shoplifting offenses
13. Open container violations
14. School rule violations and infractions

The defendant is sentenced according to the judgment of the Teen Court jury. Sentences include serving between eight and fifty hours of community service and service on the Teen Court jury between one and six times. The sentence will be determined by the jury on the basis of attorney recommendations, the evidence presented, the severity of the crime, the age and maturity of the defendant, and the degree of remorse shown by the defendant. The jury also may add other conditions, including essays, letters of apology, and curfews. Defendants are required to complete their sanctions within 30 days, and the Judge reserves the right to modify inappropriate sentences. Defendants who fail to satisfy the terms of their sentences are referred back to the Department of Justice or the State Attorney's Office.

Teen Court program personnel tracks satisfactory completion of sentences and coordinates the volunteer agency placement, evaluation, and follow-up. Volunteers demonstrate leadership and civic responsibility while learning about the justice system. Teen Court provides the judicial system with a more effective way to deal with juvenile offenders, while offering volunteers an opportunity to gain knowledge, experience, public speaking, negotiation, and team-building skills. Teen Court is an educational experience through which teens can come to understand and appreciate our system of justice.

## HISTORY OF TEEN COURTS

In the mid-1980's, Grand Prairie and Odessa, Texas developed very successful Teen Court programs. In 1988 Judge Paul Logan of Sarasota, Florida, observed the Odessa program and initiated a Teen Court program as an alternative to Juvenile Court. Since that time, the program has been replicated in Hillsborough, Manatee, Lee, Leon, Polk and other counties in Florida.

❖

Education has for its object the formation of character.

--Herbert Spencer (1850)

❖

No one can be perfectly free till all are free; no one can be perfectly moral till all are moral; no one can be perfectly happy till all are happy.

--Herbert Spencer (1850)

❖

The humblest citizen of all the land, when clad in the armor of a righteous cause, is stronger than all the hosts of error.

--William Jennings Bryan (1896)

❖

The first requisite of a good citizen in this Republic of ours is that he shall be able and willing to pull his weight.

--Theodore Roosevelt (1902)

❖

The Constitution does not provide for first and second class citizens.

--Wendell Willkie (1944)

❖

Many forms of government have been tried, and will be tried in this world of sin and woe. No one pretends that democracy is perfect or all-wise. Indeed, it has been said that democracy is the worst form of Government except all those other forms that have been tried from time to time.

--Winston Churchill (1947)

# Part VI

◆

# Appendix

Sunshine
State
Standards

# PreK-12
# Social Studies

Florida Department of Education
Frank T. Brogan
Commissioner

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## C. Government and the Citizen [Civics and Government]

1. The student understands the structure, functions, and purposes of government and how the principles and values of American democracy are reflected in American constitutional government.

| **Level** | **Benchmark**<br>The student |
|---|---|
| **Grades PreK-2** | SS.C.1.1.1<br>knows how various symbols are used to depict Americans' shared values, principles, and beliefs. |
| | SS.C.1.1.2<br>knows traditionally patriotic activities and various holidays that reflect the shared values, principles, and beliefs of Americans. |
| | SS.C.1.1.3<br>understands how and why rules are made and knows that a good rule or law solves a specific problem, is fair, and "does not go too far." |
| | SS.C.1.1.4<br>recognizes major elected officials. |
| | SS.C.1.1.5<br>knows examples of authority and power without authority and knows that people in positions of authority have limits on their authority. |
| | SS.C.1.1.6<br>understands that the Constitution is a written document that states that the fundamental purposes of American government are to protect individual rights and promote the common good. |

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## C. Government and the Citizen [Civics and Government]

1. The student understands the structure, functions, and purposes of government and how the principles and values of American democracy are reflected in American constitutional government.

| **Level** | **Benchmark**<br>The student |
|---|---|
| **Grades 3-5** | SS.C.1.2.1<br>identifies the structure and function of local, state, and federal governments under the framework of the Constitutions of Florida and the United States. |
| | SS.C.1.2.2<br>understands the structure, functions, and primary responsibilities of executive, legislative, and judicial branches of governments and understands how all three branches of government promote the common good and protect individual rights. |
| | SS.C.1.2.3<br>knows the names of his or her representatives at the local, state, and national levels (e.g., city council members, state representatives, and members of Congress) and the names of his or her representatives in the executive branches of government at the local, state, and national levels (e.g., mayor, governor, and president). |
| | SS.C.1.2.4<br>knows possible consequences of the absence of government, rules, and laws. |
| | SS.C.1.2.5<br>knows the basic purposes of government in the United States and knows the basic things governments do in one's school, community, state, and nation. |

## C. Government and the Citizen [Civics and Government]

| 1. The student understands the structure, functions, and purposes of government and how the principles and values of American democracy are reflected in American constitutional government. | |
|---|---|
| **Level** | **Benchmark**<br>The student |
| **Grades 6-8** | SS.C.1.3.1<br>knows the essential ideas of American constitutional government that are expressed in the Declaration of Independence, the Constitution, the Federalist Papers, and other writings. |
| | SS.C.1.3.2<br>understands major ideas about why government is necessary and the purposes government should serve. |
| | SS.C.1.3.3<br>understands how the legislative, executive, and judicial branches share power and responsibilities (e.g., each branch has varying degrees of legislative, executive, and judicial powers and responsibilities). |
| | SS.C.1.3.4<br>knows the major parts of the federal system including the national government, state governments, and other governmental units (e.g., District of Columbia, American tribal governments, and the Virgin Islands). |
| | SS.C.1.3.5<br>knows the major responsibilities of his or her state and local governments and understands the organization of his or her state and local governments. |
| | SS.C.1.3.6<br>understands the importance of the rule of law in establishing limits on both those who govern and the governed, protecting individual rights, and promoting the common good. |

## C. Government and the Citizen [Civics and Government]

1. The student understands the structure, functions, and purposes of government and how the principles and values of American democracy are reflected in American constitutional government.

| Level | Benchmark<br>The student |
|---|---|
| **Grade 9-12** | SS.C.1.4.1<br>understands the nature of political authority and the nature of the relationship between government and civil society in limited governments (e.g. constitutional democracies) and unlimited governments (e.g. totalitarian regimes). |
| | SS.C.1.4.2<br>understands the ideas that led to the creation of limited government in the United States (e.g., ideas of natural rights philosophy, and the concept of popular sovereignty). |
| | SS.C.1.4.3<br>understands how the overall design and specific features of the Constitution prevent the abuse of power by aggregating power at the national, state, and local levels; dispersing power among different levels of government; and using a system of checks and balances (e.g., federalism). |
| | SS.C.1.4.4<br>understands the role of special interest groups, political parties, the media, public opinion, and majority/minority conflicts on the development of public policy and the political process. |

## C. Government and the Citizen [Civics and Government]

| 2. The student understands the role of the citizen in American democracy. | |
|---|---|
| **Level** | **Benchmark**<br>The student |
| **Grades PreK-2** | SS.C.2.1.1<br>knows the qualities of a good citizen (e.g., honesty, courage, and patriotism). |
| | SS.C.2.1.2<br>knows that a responsibility is a duty to do something or not to do something. |
| | SS.C.2.1.3<br>knows the sources of responsibility, examples of situations involving responsibility, and some of the benefits of fulfilling responsibilities. |
| | SS.C.2.1.4<br>knows that the right to privacy is a personal right guaranteed by the United States Constitution and knows when privacy is expected. |
| **Grades 3-5** | SS.C.2.2.1<br>understands the importance of participation through community service, civic improvement, and political activities. |
| | SS.C.2.2.2<br>understands why personal responsibility (e.g., taking advantage of the opportunity to be educated) and civic responsibility (e.g., obeying the law and respecting the rights of others) are important. |
| | SS.C.2.2.3<br>knows that a citizen is a legally recognized member of the United States who has certain rights and privileges and certain responsibilities (e.g., privileges such as the right to vote and hold public office and responsibilities such as respecting the law, voting, paying taxes, and serving on juries). |

## C. Government and the Citizen [Civics and Government]

2. The student understands the role of the citizen in American democracy.

| **Level** | **Benchmark**<br>The student |
|---|---|
| **Grades 3-5** | SS.C.2.2.4<br>knows examples of the extension of the privileges and responsibilities of citizenship. |
| | SS.C.2.2.5<br>knows what constitutes personal, political, and economic rights and why they are important and knows examples of contemporary issues regarding rights. |
| **Grades 6-8** | SS.C.2.3.1<br>understands the history of the rights, liberties, and obligations of citizenship in the United States. |
| | SS.C.2.3.2<br>understands that citizenship is legally recognized full membership in a self-governing community that confers equal rights under the law; is not dependent on inherited, involuntary groupings; and confers certain rights and privileges (e.g., the right to vote, to hold public office, and to serve on juries). |
| | SS.C.2.3.3<br>understands the argument that all rights have limits and knows the criteria commonly used in determining when and why limits should be placed on rights (e.g., whether a clear and present danger exists and whether national security is at risk). |
| | SS.C.2.3.4<br>understands what constitutes personal, political, and economic rights and the major documentary sources of these rights. |

## C. Government and the Citizen [Civics and Government]

| 2. The student understands the role of the citizen in American democracy. | |
|---|---|
| **Level** | **Benchmark**<br>The student |
| **Grades 6-8** | SS.C.2.3.5<br>understands how he or she can contact his or her representatives and why it is important to do so and knows which level of government he or she should contact to express his or her opinions or to get help on a specific problem. |
| | SS.C.2.3.6<br>understands the importance of participation in community service, civic improvement, and political activities. |
| | SS.C.2.3.7<br>understands current issues involving rights that affect local, national, or international political, social, and economic systems. |
| **Grades 9-12** | SS.C.2.4.1<br>develops and defines his or her own political beliefs and tendencies. |
| | SS.C.2.4.2<br>assesses the role that his or her own political behavior plays in determining the flow of power through our political system and for resolving conflicts in a pluralistic society. |
| | SS.C.2.4.3<br>understands issues of personal concern: the rights and responsibilities of the individual under the U.S. Constitution; the importance of civil liberties; the role of conflict resolution and compromise; and issues involving ethical behavior in politics. |